

## **EXPLANATORY MEMORANDUM**

### **THE SOCIAL SECURITY (CONTRIBUTION CONDITIONS FOR JOBSEEKER'S ALLOWANCE AND EMPLOYMENT AND SUPPORT ALLOWANCE) REGULATIONS (NORTHERN IRELAND) 2010 S.R. 2010 No. 346**

#### **1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under Articles 4(2A) and 36(2) of the Jobseekers (Northern Ireland) Order 1995 and section 25(2) of, and paragraph 1(3) and (4) of Schedule 1 to, the Welfare Reform Act (Northern Ireland) 2007 and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1 These Regulations amend the Jobseeker's Allowance Regulations (Northern Ireland) 1996 and the Employment and Support Allowance Regulations (Northern Ireland) 2008 with effect from 1 November 2010.
- 2.2 From 1 November 2010, all new claimants claiming contributory Employment and Support Allowance or contribution-based Jobseeker's Allowance will be required to have paid National Insurance contributions on relevant earnings at the lower earnings limit for at least 26 weeks in one of the last two complete tax years to qualify for benefit.
- 2.3 The Regulations make provision for determining a claimant's 'relevant earnings' for the purposes of the first contribution condition for Employment and Support Allowance and Jobseeker's Allowance. They provide that, for the purpose of this condition, a claimant's 'relevant earnings' will be the total amount of their earnings at the lower earnings limit in one of the last two complete tax years before the benefit year in which the claim is made.
- 2.4 The Regulations also amend the existing relaxation provision under which certain groups of Employment and Support Allowance claimants – such as carers – can be taken to satisfy the amended first contribution condition in any tax year.

#### **Background**

- 3.1 The Welfare Reform Act (Northern Ireland) 2010 introduced provisions to amend the National Insurance contribution conditions for Jobseeker's Allowance and Employment and Support Allowance. That Act provides

for the number of tax years in which a person can pay National Insurance contributions and qualify for Employment and Support Allowance to be reduced from three years to two. This aligns the period for Employment and Support Allowance with that for Jobseeker's Allowance. The Act further provides that the first contribution condition for Jobseeker's Allowance and Employment and Support Allowance are met by the claimant having paid, or being treated as having paid, Class 1 National Insurance contributions (or Class 2 in relation to Employment and Support Allowance) on relevant earnings which are not less than 26 times the base year's lower earnings limit (£97 per week in 2010/11) in one of the two tax years prior to the claim.

- 3.2 The proposed change will mean that new claimants will have to have worked and paid National Insurance contributions for a minimum of 26 weeks to qualify for contribution-based Jobseeker's Allowance or contributory Employment and Support Allowance; and these contributions will have to have been paid in one of the last two tax years before the claim. This will simplify the benefit system and strengthen the link between claiming contributory benefits and periods of recent employment.

#### **4. Consultation**

- 4.1 The proposals to amend the contribution conditions for Jobseeker's Allowance and Employment and Support Allowance were fully consulted on as part of the proposals for the Welfare Reform Act (Northern Ireland) 2010. As the Regulations are being made before the end of the period of six months from the commencement of the primary powers, they are exempt from prior reference to the Social Security Advisory Committee.

#### **5. Equality Impact**

- 5.1 The impact of amending the contribution conditions for Jobseeker's Allowance and Employment and Support Allowance on equality of opportunity among those groups listed in section 75 of the Northern Ireland Act 1998 was assessed as part of the Equality Impact Assessment of the Welfare Reform Act (Northern Ireland) 2010 and these Regulations do not have any additional implications for equality of opportunity.

#### **6. Regulatory Impact**

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose any new costs on business, charities or voluntary bodies.

#### **7. Financial Implications**

- 7.1 These Regulations do not have any significant financial implications for the Department.

#### **8. Section 24 of the Northern Ireland Act 1998**

- 8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—
- (a) is not incompatible with any of the Convention rights,
  - (b) is not incompatible with Community law,
  - (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
  - (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

## **9. EU Implications**

- 9.1 Not applicable.

## **10. Parity or Replicatory Measure**

- 10.1 The corresponding Great Britain Regulations are the Social Security (Contribution Conditions for Jobseeker's Allowance and Employment and Support Allowance) Regulations 2010 and come into force on 1 November 2010. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.