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STATUTORY RULES OF NORTHERN IRELAND

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**2011 No. 357**

**The Social Security (Miscellaneous Amendments  
No. 2) Regulations (Northern Ireland) 2011**

**PART 3**

**AMENDMENTS TO SECONDARY LEGISLATION**

**Amendment of the Employment and Support Allowance Regulations**

**21.**—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008<sup>(1)</sup> are amended in accordance with paragraphs (2) to (16).

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “carer’s allowance” insert—

““the Caxton Foundation” means the charitable trust of that name established on 28th March 2011, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;”;

(b) in the definition of “qualifying person”<sup>(2)</sup> after “the Skipton Fund” insert “, the Caxton Foundation”; and

<sup>F1</sup>(c) .....

(3) In regulation 8(1) (relaxation of the first contribution condition), for sub-paragraph (b)<sup>(3)</sup> substitute—

“(b) the claimant has—

(i) earnings at the lower earnings limit in that tax year on which primary Class 1 contributions have been paid or treated as paid which in total, and disregarding any earnings which exceed the lower earnings limit for that year, are not less than that limit multiplied by 26; or

(ii) earnings factors in that tax year derived from Class 2 contributions multiplied by 26.”.

(4) In regulation 20(c) (certain claimants to be treated as having limited capability for work), for “by reason of the claimant being a carrier, or having been in contact with” substitute “by reason of it being known or reasonably suspected that the claimant is infected or contaminated by, or has been in contact with,”.

<sup>F2</sup>(5) .....

(6) In—

(a) regulation 22(2)(b); and

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<sup>(1)</sup> S.R. 2008 No. 280; relevant amending Regulations are S.R. 2010 Nos. 69, 200, 346 and 347

<sup>(2)</sup> The definition of “qualifying person” was amended by regulation 10(3)(a) of S.R. 2010 No. 69

<sup>(3)</sup> Sub-paragraph (b) was substituted by regulation 3(3) of S.R. 2010 No. 346

(b) regulation 37(2)(b)—

<sup>F3</sup>(i) .....

(ii) for “2 weeks have” substitute “1 week has”.

<sup>F4</sup>(7) .....

(8) In—

- (a) regulation 107(5)(a)(4) (notional income – income due to be paid or income paid to or in respect of a third party);
- (b) regulation 112(8)(5) (income treated as capital);
- (c) Schedule 6 (housing costs) paragraph 19(8)(b)(6);
- (d) Schedule 8 (sums to be disregarded in the calculation of income other than earnings), paragraphs 21(2)(7) and 40(1)(8); and
- (e) Schedule 9 (capital to be disregarded) paragraph 31(9),

after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.

(9) In—

- (a) regulation 115(5)(a)(10) (notional capital);
- (b) Schedule 8 paragraph 40(7)(11); and
- (c) Schedule 9 paragraph 27(1) and (7)(12),

after “the Skipton Fund” insert “, the Caxton Foundation”.

(10) In regulation 147A(5)(13) (claimants appealing a decision)—

- (a) in sub-paragraph (c) for “or struck out,” substitute “, struck out or has been discontinued in accordance with the provisions of regulation 33(9) of the Decisions and Appeals Regulations (making of appeals and applications)(14);”; and
- (b) after the words “is to be treated as not having limited capability for work”, for the remainder of paragraph (5) substitute “with effect from the day specified in paragraph (5A).”.

(11) After regulation 147A(5) insert—

“(5A) The day specified for the purposes of paragraph (5) is the first day of the benefit week following the date on which the Department either—

- (a) receives the clerk of the appeal tribunal’s notification that the appeal is dismissed, withdrawn or struck out, or
- (b) discontinues action on an appeal in the circumstances to which regulation 33(9) (Decisions and Appeals) Regulations applies.”.

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(4) Paragraph 5(a) was amended by regulation 10(3)(b) and (5)(a) of [S.R. 2010 No. 69](#)  
(5) Regulation 112(8) was amended by regulation 10(3)(c) and (5)(b) of [S.R. 2010 No. 69](#)  
(6) Sub-paragraph (8)(b) was amended by regulation 10(3)(e) and (5)(d) of [S.R. 2010 No. 69](#)  
(7) Sub-paragraph (2) was amended by regulation 10(3)(f) of [S.R. 2010 No. 69](#)  
(8) Sub-paragraph (1) was amended by regulation 10(3)(f) and (5)(e) of [S.R. 2010 No. 69](#)  
(9) Paragraph (31) was amended by regulation 10(3)(g) of [S.R. 2010 No. 69](#)  
(10) Sub-paragraph (a) was amended by regulation 10(3)(d) and (5)(c) of [S.R. 2010 No. 69](#)  
(11) Sub-paragraph (7) was amended by regulation 10(3)(f) of [S.R. 2010 No. 69](#)  
(12) Sub-paragraphs (1) and (7) were both amended by regulation 10(3)(g) and sub-paragraph (1) was further amended by regulation 10(5)(f) of [S.R. 2010 No. 69](#)  
(13) Regulation 147A was inserted by regulation 9(15) of [S.R. 2010 No. 200](#)  
(14) [S.R. 1999 No. 162](#); regulation 33(9) was added by regulation 6(10) of [S.R. 2000 No. 215](#) and amended by regulation 2(10)(b) of [S.R. 2002 No. 189](#)

(12) In regulation 148(3)(15) (work or training beneficiaries) after the definition of “linking term” insert—

““most recent past period of limited capability for work” means the period of limited capability for work which most recently precedes the period in respect of which the current claim is made, including any period of which that previous period is treated as a continuation by virtue of regulation 145(1) or (2) (linking rules);”.

(13) In regulation 161(1)(a) (suspension of payment of a contributory allowance during imprisonment) for “(2)” substitute “(1)”.

(14) In Schedule 4 (amounts), in paragraph 6 (severe disability premium) in—

(a) sub-paragraph (2)(a)(i); and

(b) sub-paragraph (2)(b)(i),

after “care component” insert “or attendance allowance”.

(15) In Schedule 6, paragraph 15 (linking rules) in sub-paragraphs (4)(b) and (17) after “income” insert “equal to or”.

- F1** Reg. 21(2)(c) revoked (29.10.2013) by The Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2013 (S.R. 2013/246), reg. 1(1), **Sch.**
- F2** Reg. 21(5) revoked (29.10.2013) by The Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2013 (S.R. 2013/246), reg. 1(1), **Sch.**
- F3** Reg. 21(6)(b)(i) revoked (29.10.2013) by The Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2013 (S.R. 2013/246), reg. 1(1), **Sch.**
- F4** Reg. 21(7) revoked (1.7.2013) by The Social Security (Croatia) (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2013/167), regs. 1(1), **9**

#### Commencement Information

- I1** Reg. 21 in operation at 31.10.2011, see **reg. 1(1)**

**Status:**

Point in time view as at 29/10/2013.

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2011, Section 21.