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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 185**

**The Employment and Support Allowance (Repeat Assessments and Pending Appeal Awards) (Amendment) Regulations (Northern Ireland) 2015**

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

**3.—(1)** The Employment and Support Allowance Regulations (Northern Ireland) 2008<sup>(1)</sup> are amended in accordance with paragraphs (2) and (3).

(2) In regulation 30 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made)—

(a) for paragraph (2)(b)(2) substitute—

“(b) in relation to the claimant’s entitlement to any benefit, allowance or advantage which is dependent on the claimant having limited capability for work, it has not been determined—

(i) in the last determination preceding the date of claim for an employment and support allowance, that the claimant does not have limited capability for work, or

(ii) within the 6 months preceding the date of claim for an employment and support allowance, that the claimant is to be treated as not having limited capability for work under regulation 22 or 23,

unless paragraph (4) applies.”;

(b) for paragraph (3) substitute—

“(3) Paragraph (2)(b) does not apply where a claimant has made and is pursuing an appeal against a relevant decision of the Department, and that appeal has not yet been determined by an appeal tribunal.”; and

(c) after paragraph (4)(3) add—

“(5) In this regulation a “relevant decision” means—

(a) a decision that embodies the first determination by the Department that the claimant does not have limited capability for work; or

(b) a decision that embodies the first determination by the Department that the claimant does not have limited capability for work since a previous determination by the Department or appellate authority that the claimant does have limited capability for work.

(6) In this regulation “appellate authority” means an appeal tribunal, a Commissioner (as defined in section 167 of the Social Security Administration (Northern Ireland) 1992), the Court of Appeal or the Supreme Court.”.

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(1) S.R. 2008 No. 280; relevant amending Regulations are S.R. 2010 No. 200 and S.R. 2013 No. 246

(2) Paragraph (2)(b) was amended by regulation 11(13)(a) of S.R. 2013 No. 246

(3) Paragraph (4) was added by regulation 11(13)(c) of S.R. 2013 No.246

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(3) For regulation 147A(1)(4) (claimants appealing a decision) substitute—

“(1) This regulation applies where a claimant has made and is pursuing an appeal against a relevant decision of the Department as defined in regulation 30.”.