

EXPLANATORY MEMORANDUM TO
THE INDUSTRIAL INJURIES BENEFIT (EMPLOYMENT TRAINING SCHEMES
AND COURSES) REGULATIONS (NORTHERN IRELAND) 2016

2016 No. 238

THE INDUSTRIAL INJURIES BENEFIT (INJURIES ARISING BEFORE 5 JULY
1948) REGULATIONS (NORTHERN IRELAND) 2016

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1. Introduction

- 1.1 This combined explanatory memorandum has been prepared by the Department for Communities (Northern Ireland) (“The Department”) on behalf of the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The purpose of these two instruments is to simplify and rationalise the provision of industrial injuries benefits, making it easier for customers to understand and for the Department to administer by consolidating existing schemes into the main Industrial Injuries Disablement Benefit scheme.
- 2.2 The Industrial Injuries Benefit (Employment Training Schemes and Courses) Regulations (Northern Ireland) 2016, together with provisions in [the Welfare Reform \(Northern Ireland\) Order 2015](#) (“the 2015 Order”), extend the provision of industrial injuries benefits to people participating in certain employment training schemes and courses.
- 2.3 The purpose of the Industrial Injuries Benefit (Injuries arising before 5 July 1948) Regulations (Northern Ireland) 2016 is to enable customers who were entitled to receive payments under the Workmen’s Compensation (Supplementation) Scheme 1982 to instead be paid industrial injuries benefit under the main Industrial Injuries Disablement Benefit scheme.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As these instruments are subject to the negative resolution procedure and have not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 [Section 87 of the Northern Ireland Act 1998](#) places a statutory duty on the Northern Ireland Minister with responsibility for social security and the Secretary of State for Work and Pensions to consult with one another with a view to securing single systems

of social security for the United Kingdom. Section 88 of that Act makes provision for financial adjustments to support the maintenance of these parity arrangements.

- 4.2 Underpinning the parity principle is the argument that as people in Northern Ireland pay the same rates of income tax and National Insurance contributions as people in Great Britain; they are entitled to the same rights and benefits paid at the same rates.
- 4.3 [The Welfare Reform Act 2012](#) introduced a number of reforms including Universal Credit, Personal Independence Payment, the Jobseeker's Allowance Claimant Commitment and a cap on the amount of benefits working age people can receive.
- 4.4 On 17 November 2015 "[A Fresh Start: the Stormont Agreement and Implementation Plan](#)" was agreed by the main political parties in Northern Ireland. Included in this agreement was the approach agreed by the Northern Ireland Executive and HM Government to implementing welfare reform in Northern Ireland. [The Northern Ireland \(Welfare Reform\) Act 2015](#) provides a power for Her Majesty to legislate on social security, child support and certain matters related to employment and training in Northern Ireland by Order in Council. Any such Order in Council may then confer power on the Secretary of State or a Northern Ireland department to make further provision regarding these matters by regulations or order. [The Welfare Reform \(Northern Ireland\) Order 2015](#) ("the 2015 Order") was made on 9 December 2015 and regulations stemming from the Order to implement the various welfare reforms set out in the Welfare Reform Act 2012 in Northern Ireland are now being brought forward.

5. Extent and Territorial Application

- 5.1 The extent of these instruments is solely to Northern Ireland.
- 5.2 The territorial application of these instruments is Northern Ireland.
- 5.3 The Industrial Injuries (Employment Training Schemes and Courses) Regulations (Northern Ireland) 2016 replicate for Northern Ireland the changes made to the social security system in Great Britain by [the Industrial Injuries Benefit \(Employment Training Schemes and Courses\) Regulations 2013](#) (S.I 2013/2540).
- 5.4 The Industrial Injuries Benefit (Injuries arising before 5 July 1948) Regulations (Northern Ireland) 2016 replicate for Northern Ireland the changes made to the social security system in Great Britain by [The Industrial Injuries Benefit \(Injuries arising before 5 July 1948\) Regulations 2012](#) (S.I 2013/2743).

6. European Convention on Human Rights

- 6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

Industrial Injuries Benefit (Employment Training Schemes and Courses)

- 7.1 One of the conditions of entitlement to industrial injuries benefits is that the claimant must be an employed earner. This excluded trainees who participated in approved employment training schemes to help them into work, because they could not be classified as employed earners.

- 7.2 The [Industrial Training \(Northern Ireland\) Order 1984](#) made separate provisions for trainees who participated in schemes approved by or on behalf of the Department to be entitled to payments of benefit that would otherwise only be appropriate to employed earners. This provided for trainees to receive payments from a separate, but analogous, scheme to the Industrial Injuries Disablement Benefit scheme (in practice the claims are dealt with in the same way, including the level of payments). The industrial injuries payment scheme for trainees is commonly known as the Analogous Industrial Injuries Scheme (AIIS).
- 7.3 For the purposes of simplification, Northern Ireland included provisions in the [2015 Order](#) that will allow existing claimants paid under the AIIS to be paid under the main Industrial Injuries Disablement Benefits scheme. This instrument will enable claims for such payments, which were made previously but have not yet been determined, to be treated as claims for industrial injuries benefits.
- 7.4 For the purposes of deciding entitlement to industrial injuries benefit only, trainees who participate in employment training schemes and courses of the kind set out in regulation 2 will be regarded as employed earners and providers of the schemes will be regarded as employers (regulation 3). This ensures that the regulations will not require amendment every time the primary powers are exercised.
- 7.5 These schemes relate to those people who are registered as unemployed, actively seeking work and who are undertaking employment training under an employment training scheme that has been approved by or on behalf of the Department, which will assist them into work – this training may be mandatory or voluntary. The scheme is not intended for people in full time education.
- 7.6 The employment schemes covered are:
- schemes under section 1 of [the Employment and Training Act \(Northern Ireland\) 1950](#), which includes work experience and some work-related training;
 - schemes under Article 19A of [the Jobseekers \(Northern Ireland\) Order 1995](#), which includes the Work Programme, New Enterprise Allowance, sector-based work academies, skills conditionality and Mandatory Work Activity;
 - work-related activity run under section 13 of [the Welfare Reform Act \(Northern Ireland\) 2007](#) for recipients of Employment and Support Allowance in the work-related activity group; and work preparation activity under article 8C of [the Jobseekers Order](#), section 11C of the [Welfare Reform Act \(Northern Ireland\) 2007](#) or article 21 of the [2015 Order](#).

Industrial Injuries Benefit (Injuries arising before 5 July 1948)

- 7.7 The Workmen’s Compensation (Supplementation) Scheme 1982 currently provides state compensation for industrial accidents and occupationally caused diseases¹ before 5 July 1948. Article 70(2) of the 2015 Order repeals Section 111 and Schedule 8 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, abolishing this scheme. Any new or outstanding claims, will be transferred to the main Industrial Injuries Disablement Benefit scheme.

¹ Occupationally caused diseases are certain prescribed diseases contracted in the course of certain types of employment. A disease or injury is only prescribed when it is identified as a risk arising from the nature of a person’s occupation and not a risk common to everybody.

- 7.8 The number of claimants to which these provisions would apply is very small, if any. The number of cases currently live in Northern Ireland is nil. However, it is clear that no-one will lose out financially from this change as payments are aligned with the rates of Industrial Injuries Disablement Benefit scheme. In fact any customers affected could benefit from an increase in payments of up to £5 per week (2012/13 figures).

Consolidation

- 7.9 These two instruments will be informally consolidated in the NI equivalent of the GB Law Relating to Social Security (or “Blue Volumes”), as the legislation applies only to Northern Ireland. It will be available to the public at no cost via the internet at: <https://www.dsdni.gov.uk/services/law-relating-social-security>.

8. Consultation outcome

- 8.1 The Department consulted on the implications of the wider reforms as part of the Welfare Reform Bill consultation process, including a public consultation on the equality impact assessment. The Department has also discussed informally with stakeholders to ensure that the operational implications are fully understood and that processes are in place to ensure that the change is implemented correctly in Northern Ireland.

9. Guidance

- 9.1 Before these Regulations come into force detailed guidance on both regulatory and operational changes will be provided to staff and decision makers within the Department. Procedures will be updated, staff trained and notification letters amended before these Regulations are brought into operation.
- 9.2 After these Regulations are laid changes will be made to the Decision Makers Guide (DMG) which is also available free on the internet at: <https://www.dsdni.gov.uk/articles/decision-makers-guide>.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for these instruments, due to the small scale of the impact.

11. Regulating small business

- 11.1 The Industrial Injuries Benefit (Injuries arising before 5 July 1948) Regulations (Northern Ireland) 2016 do not apply to activities that are undertaken by small business.

11.2 The Industrial Injuries Benefit (Employment Training Schemes and Courses) Regulations (Northern Ireland) 2016 have no impact on small businesses. Training providers are regarded as employers but only for the purposes of claims to industrial injuries benefit, which is a benefit funded by government.

12. Monitoring & review

12.1 The operation of these Regulations will continue to be reviewed through the normal avenues of guidance enquiries received from the Department's offices and correspondence from members of the public.

12.2 Northern Ireland social security legislation normally maintains parity with changes made by the Department for Work and Pensions.

13. Contact

13.1 Anne McCleary at the Department for Communities can direct any queries regarding these two instruments. Telephone: 028 90819973 or email: caroline.banks@communities-ni.gov.uk.