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STATUTORY RULES OF NORTHERN IRELAND

2017 No. 148

SOCIAL SECURITY

The Employment and Support Allowance (Miscellaneous Amendments and Transitional and Savings Provision) Regulations (Northern Ireland) 2017

<i>Made</i>	- - - -	<i>6th July 2017</i>
<i>Laid before Parliament</i>		<i>10th July 2017</i>
<i>Coming into operation</i>		<i>31st July 2017</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by Articles 9(4) and (5) and 22(1) of the Welfare Reform and Work (Northern Ireland) Order 2016⁽¹⁾. Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(a) of the Welfare Reform (Northern Ireland) Order 2015⁽²⁾.

Citation and commencement

1. These Regulations may be cited as the Employment and Support Allowance (Miscellaneous Amendments and Transitional and Savings Provision) Regulations (Northern Ireland) 2017 and shall come into operation on 31st July 2017.

Amendment of the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988

2. In regulation 1(2) (interpretation) of the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988⁽³⁾ in the definitions of “member of the support group” and “member of the work-related activity group” for “claimant” substitute “person”.

(1) S.I. 2016/999 (N.I. 1)
(2) S.I. 2015/2006 (N.I. 1); Article 4(1)(a) was amended by Article 4(2)(a) of S.I. 2016/999 (N.I. 1)
(3) S.R. 1988 No. 368; relevant amending Regulation is S.R. 2017 No. 51

Amendment of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996

3. In paragraph 1(3)(e)(i) of Schedule 2 (housing costs) to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(4) after “(component)” insert “or who is a member of the work-related activity group”.

Amendment of the Housing Benefit Regulations (Northern Ireland) 2006

4.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(5) are amended in accordance with paragraphs (2) to (5).

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

- (a) in the definition of “main phase employment and support allowance” after “Welfare Reform Act” insert “or the claimant is a member of the work-related activity group,”; and
- (b) in the definition of “member of the work-related activity group” for “claimant” substitute “person”.

(3) In regulation 7(8)(c)(ii) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—

- (a) omit “23 or”; and
- (b) after “of that Schedule” insert “or the claimant or the claimant’s partner is a member of the work-related activity group”.

(4) In regulation 72(8)(a) (non-dependant deductions) for “or where the non-dependant is not a member of the work-related activity group” substitute “and where the non-dependant is not a member of the work-related activity group”.

(5) In paragraph 1A(a) of Schedule 4 (applicable amounts) after “personally” insert “or the claimant is personally a member of the work-related activity group”.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006

5.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(6) are amended in accordance with paragraphs (2) and (3).

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

- (a) in the definition of “main phase employment and support allowance” after “Welfare Reform Act” insert “or the claimant is a member of the work-related activity group”; and
- (b) in the definition of “member of the work-related activity group” for “claimant” substitute “person”.

(3) In regulation 53(8) (non-dependant deductions) for “or where the non-dependant is not a member of the work-related activity group” substitute “and where the non-dependant is not a member of the work-related activity group”.

(4) S.R. 1996 No. 198; relevant amending Regulations are S.R. 2016 No. 175 and S.R. 2017 No. 51

(5) S.R. 2006 No. 405; relevant amending Regulations are; S.R. 2008 Nos.179 and 378, S.R. 2009 No. 92, S.R. 2010 No. 312, S.R. 2013 No. 67 and S.R. 2017 No. 51

(6) S.R. 2006 No. 406; relevant amending Regulations are; S.R. 2008 No.378 and S.R 2017 No. 51

Amendment of the Employment and Support Allowance Regulations (Northern Ireland) 2008

6.—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008(7) are amended in accordance with paragraphs (2) to (4).

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

(a) in the definition of “main phase employment and support allowance” after “Act” insert “or the claimant is a member of the work-related activity group”; and

(b) after the definition of “member of Her Majesty’s forces” insert—

““member of the work-related activity group” means a person who has or is treated as having limited capability for work under Part 5 of these Regulations other than by virtue of regulation 30 of these Regulations;”.

(3) In regulation 7(1B) (circumstances where the condition that the assessment phase has ended before entitlement to the support component arises does not apply)—

(a) in sub-paragraph (a)(i) after “2(2) and 4(4) of the Act” insert “or the claimant was a member of the work-related activity group”; and

(b) in sub-paragraph (d)(i) after “2(2) or 4(4) of the Act” insert “or the claimant was a member of the work-related activity group”.

(4) In column (1) of paragraph 1 of Part 1 of Schedule 4 (amounts)—

(a) in sub-paragraph (1)(a) after “2(2) or 4(4) of the Act” insert “or who is a member of the work-related activity group”;

(b) in sub-paragraph (2)(a) after “4(4) of the Act” insert “or who is a member of the work-related activity group and satisfies the conditions set out in Part 2 of Schedule 1 to the Act”; and

(c) in sub-paragraph (3)(c), (f) and (g) after “4(4) of the Act” insert “or the claimant is a member of the work-related activity group and satisfies the conditions set out in Part 2 of Schedule 1 to the Act”.

Amendment of the Employment and Support Allowance Regulations (Northern Ireland) 2016

7. In regulation 62(1)(a) and (b) (prescribed amounts) of the Employment and Support Allowance Regulations (Northern Ireland) 2016(8) after “the Act” insert “or the claimant is a member of the work-related activity group and satisfies the conditions set out in Part 1 of Schedule 1 to the Act”.

Amendment of the Employment and Support Allowance (Consequential Amendments and Transitional and Savings Provisions) Regulations (Northern Ireland) 2017

8. In Schedule 2 to the Employment and Support Allowance (Consequential Amendments and Transitional and Savings Provisions) Regulations (Northern Ireland) 2017(9) (employment and support allowance: transitional and savings provisions)—

(a) in paragraph 1(2), in the definition for “a claim”—

(i) for ““a claim”” substitute ““claim””, and

(ii) before “in accordance” insert “made”; and

(7) [S.R. 2008 No. 280](#); relevant amending Regulations are [S.R. 2012 No. 160](#) and [S.R. 2017 No. 51](#)

(8) [S.R. 2016 No. 219](#); relevant amending Regulation is [S.R. 2017 No. 51](#)

(9) [S.R. 2017 No. 51](#)

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

- (b) in paragraph 4 (claimants on incapacity benefits who have or will become notified persons), after “where the claimant” insert “has been,”.

Transitional and savings provision

9. The amendments made by regulations 2 to 7 of these Regulations do not apply where any of the circumstances in paragraphs 2 to 7 of Schedule 2 (employment and support allowance: transitional and savings provisions) to the Employment and Support Allowance (Consequential Amendments and Transitional and Savings Provisions) Regulations (Northern Ireland) 2017, as amended by regulation 8 of these Regulations, apply.

Signed by authority of the Secretary of State for Work and Pensions

6th July 2017

Penny Mordaunt
Minister of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to secondary legislation consequential on Article 9 of the Welfare Reform and Work (Northern Ireland) Order 2016 (“the 2016 Order”) (S.I. 2016/999).

Sections 2 and 4 of the Welfare Reform Act (Northern Ireland) 2007 “(the Welfare Reform Act 2007)” provide for an award of an employment and support allowance where the claimant is found to have limited capability for work to include an amount (referred to as “the work-related activity component”) as may be prescribed by regulations. Article 9 of the 2016 Order amends sections 2 and 4 of the Welfare Reform Act 2007 to remove reference to the work-related activity component.

The Employment and Support Allowance (Consequential Amendments and Transitional and Savings Provisions) Regulations (Northern Ireland) 2017 (S.R. 2017 No. 51) “(the 2017 Regulations)” made consequential amendments required under Article 9 of the 2016 Order and provided transitional protection for certain claimants.

Regulations 2 to 7 make amendments to ensure that it is clear following the 2017 Regulations what allowances are available to claimants who are not protected by the 2017 Regulations.

Regulation 8 makes minor amendments to the 2017 regulations to make it clear which claimants are protected by the transitional protection.

Regulation 9 provides that the amendments made at regulations 2 to 7 apply only to claimants who are not protected by the transitional protections in the 2017 Regulations.

The regulations contained in this instrument are either made by virtue of, or are consequential upon, Article 9 of the 2016 Order.

An assessment of the impact of removal of the work-related activity component from an award of Employment and Support Allowance was included in the impact assessment published alongside the 2016 Order (<http://www.legislation.gov.uk/ukia/2016/201/pdfs/ukia-20160201-en.pdf>). An impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.