

2017 No. 50

SOCIAL SECURITY

The Employment and Support Allowance (Exempt Work & Hardship Amounts) (Amendment) Regulations (Northern Ireland) 2017

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| <i>Made</i> - - - - | <i>13th March 2017</i> |
| <i>Laid before Parliament</i> | <i>14th March 2017</i> |
| <i>Coming into operation</i> - | <i>3rd April 2017</i> |

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 167D and 167G(2) and 171(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), sections 16A(1), 22 and 24(1) of, and paragraph 10 of Schedule 2 to, the Welfare Reform Act (Northern Ireland) 2007(b).

These powers are exercisable by the Secretary of State by virtue of Article 4(1)(b) of the Welfare Reform (Northern Ireland) Order 2015(c).

PART 1

Introduction

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Employment and Support Allowance (Exempt Work & Hardship Amounts) (Amendment) Regulations (Northern Ireland) 2017.

(2) This regulation and regulations 2 to 4 come into operation on 3rd April 2017.

(3) Regulation 5 comes into operation immediately after the coming into operation of the Universal Credit Regulations (Northern Ireland) 2016(d).

(4) The Interpretation Act (Northern Ireland) 1954(e) shall apply to these Regulations as it applies to an Act of the Assembly.

(a) 1992 c. 7. Sections 167D and 167G were inserted by Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)). Section 167G(2) is cited for the meaning of “prescribed”.

(b) 2007 c. 2 (N.I.). Section 16A(1) was inserted by Article 62 of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)). Section 24(1) is cited for the meaning of “prescribed” and “regulations”. There are amendments to section 24(1) which are not relevant to this instrument.

(c) S.I. 2015/2006 (N.I. 1).

(d) S.R. 2016 No. 216.

(e) 1954 c. 33 (N.I.).

PART 2

Exempt Work Amendments

Amendment of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995

2. In regulation 17 of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995 (exempt work)(a)—

- (a) in paragraph (4) omit from “, and which—” to the end;
- (b) in paragraph (8) omit the definitions of “relevant benefit” and “specified work”; and
- (c) omit paragraph (9).

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

3. In regulation 45 of the Employment and Support Allowance Regulations (Northern Ireland) 2008 (exempt work)(b)—

- (a) in paragraph (4) omit from “, and which—” to the end;
- (b) omit paragraph (4A); and
- (c) in paragraph (10) omit the definitions of “relevant benefit” and “specified work”.

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

4. In regulation 39 of the Employment and Support Allowance Regulations (Northern Ireland) 2016 (exempt work)(c)—

- (a) in paragraph (1)(c) omit from “, and which is done” to the end;
- (b) in paragraph (6) omit the definitions of “relevant benefit” and “work period”; and
- (c) omit paragraph (7).

PART 3

Hardship Amounts

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

5. In regulation 64D of the Employment and Support Allowance Regulations (Northern Ireland) 2008 (the amount of a hardship payment) (d) for paragraph (1) substitute—

“(1) A hardship payment is either—

- (a) 80% of the prescribed amount for a single claimant as set out in paragraph (1)(a) of Part 1 of Schedule 4(e) where—

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- (a) S.R. 1995 No. 41. Regulation 17 was substituted by regulation 2(4) of S.R. 2006 No. 150. Paragraph 4 was amended by regulation 6(4)(b) of SR 2010 No. 200 and regulation 6(4)(a) of S.R. 2011 No. 135. Paragraph 8 was amended by regulation 6(4)(b) of S.R. 2011 No. 135. Paragraph 9 was inserted by regulation 6(4)(c) of S.R. 2010 No. 200.
 - (b) S.R. 2008 No. 280. Paragraph 4 was amended by regulation 9(10)(b) of S.R. 2010 No. 200, regulation 14(4)(b) of S.R. 2011 No. 135 and regulation 11(21)(a) of S.R. 2013 No. 246. Paragraph 4A was inserted by regulation 11(21)(b) of S.R. 2013 No. 246.
 - (c) S.R. 2016 No. 219.
 - (d) Regulation 64D is inserted by regulation 6 of S.R. 2016 No. 240.
 - (e) The figures in paragraph 1(a) of Part 1 of Schedule 4 were substituted by paragraph 1 of Schedule 14 to the Social Security Benefits Up-rating Order (Northern Ireland) 2015 (S.R. 2015 No. 124).

- (i) the claimant has an award of employment and support allowance which does not include entitlement to a work-related activity component under section 4(2)(b) of the Welfare Reform Act (Northern Ireland) 2007 as in operation immediately before 3rd April 2017, and
 - (ii) the claimant or any other member of their family is either pregnant or seriously ill; or
- (b) 60% of the prescribed amount for a single claimant as set out in paragraph (1)(a) of Part 1 of Schedule 4 in any other case.”.

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

13th March 2017

Penny Mordaunt
Minister of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995, the Employment and Support Allowance Regulations (Northern Ireland) 2008 (“ESA Regulations 2008”) and the Employment and Support Allowance Regulations (Northern Ireland) 2016 limit the period for which claimants who are or who are treated as incapable of work or who have or who are treated as having limited capability for work (but not limited capability for work related activity) may undertake exempt work while continuing to be entitled to benefit. Under those Regulations, that period is limited to 52 weeks. As a result of the amendments in regulations 2 to 4, that limit is removed.

Regulation 5 makes amendments to the hardship provisions inserted into the ESA Regulations 2008 by the Employment and Support Allowance (Sanctions) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016 No 240), which come into operation immediately upon the coming into operation of the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No 216). This regulation amends the way that the amount of any hardship payment is to be calculated so that:

- (a) claimants will receive 80% of their prescribed amount where they are not in receipt of a work-related activity component as part of their award of employment and support allowance and either they or a member of their family is either:
 - (i) pregnant, or
 - (ii) seriously ill;
- (b) in all other cases a claimant will receive 60% of their prescribed amount.

An impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations.

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