
EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations contain provisions affecting determinations as to capacity for work for the purposes of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the Act”).

Part I contains general provisions relating to citation, commencement, interpretation and application. The regulations do not apply for the purposes of industrial injuries benefit or statutory sick pay.

Part 11 contains general provisions relating to incapacity for work, including provisions which are supplementary to Part XIIA of the Act and provisions relating to adjudication:

Regulation 4 defines “remunerative work” for the purposes of the own occupation test (which is set out in section 167B of the Act) and regulation 5 provides for the application of that test in relation to persons with more than one occupation.

Regulations 6 to 9 provide for the information or evidence required for the purposes of determining capacity for work and the consequences of failing to provide such information or evidence. In particular a person may be called for a medical examination and may be treated as capable of work if he fails to attend.

Regulations 10 to 15 provide for the circumstances in which a person is to be treated as incapable of work.

Regulations 16 to 18 provide for the circumstances in which a person is to be treated as capable of work or disqualified for receiving certain benefits. Subject to certain exceptions, persons are to be treated as capable of work for the whole of any week in which they do work which is not in an exempt category and within defined limits. Persons may also be treated as capable of work or disqualified for receiving benefit on the grounds of misconduct or failure to observe certain rules of behaviour.

Regulations 19 to 22 affect adjudication on questions relating to incapacity for work. In particular they provide for a determination in relation to one benefit to be conclusive for other benefits. They also provide for social security appeal tribunals to sit with a medical assessor in certain cases and for the constitution of panels of such assessors.

Part III relates to the all work test, which is defined in these regulations in accordance with section 167C(2) of the Act:

Regulation 23 provides for the interpretation of Part III and the Schedule.

Regulations 24 to 26 set out the all work test and establish how it is to be satisfied.

Regulation 27 states when a doctor approved by the Department of Health and Social Services may determine that a person who does not satisfy the all work test may nonetheless be treated as incapable of work.

Regulation 28 sets out conditions whereby the all work test shall be treated as satisfied until a person has been assessed or, as the case may be, until he is treated as capable of work.

The Schedule sets out the disabilities which may make a person incapable of work. Part I of the Schedule deals with physical disabilities and Part II with mental disabilities.

Sections 167A to 167E of the Act and section 59A of the Social Security Administration (Northern Ireland) Act 1992, the enabling provisions under which these regulations are made, are inserted by Articles 7 and 8 of the Social Security (incapacity for Work) (Northern Ireland) Order 1994. They are brought into operation, for the purpose only of authorising the making of regulations on 21st November 1994 and for all other purposes on 13th April 1995, by virtue of the Social Security

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

(incapacity for Work) (1994 Order) (Commencement) Order (Northern Ireland) 1994 ([S.R. 1994 No. 450 \(C.15\)](#)). Since the regulations are made before the end of a period of 6 months from the commencement of the provisions under which they are made, they are, accordingly, exempt, by virtue of section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992 ([c. 8](#)), from reference to the Social Security Advisory Committee.