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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make amendments to legislation to clarify the operation of the linking rules in regulation 145(1) and (2) of the Employment and Support Allowance Regulations (Northern Ireland) 2008 (“the Employment and Support Allowance Regulations”).

Regulation 2 amends the Employment and Support Allowance Regulations.

Paragraph (2) amends regulation 5, principally to provide for two specific circumstances in which the assessment phase for employment and support allowance (“ESA”) ends.

Paragraph (3) amends regulation 7 in order to provide for four specific exceptions to the rule that the assessment phase has to have ended before entitlement arises to the work-related activity or support components of ESA.

Paragraph (4) inserts a new regulation 35A to provide that where a claimant falls into one of those specific exceptions (case 1) and they had previously been entitled to a support component, they are to be treated as having limited capability for work-related activity.

Regulation 3 amends regulation 21(5) of the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010 (“the Reassessment Regulations”). Regulation 21 provides for the circumstances in which a transitional addition is terminated. A transitional addition is based on the difference between specified elements of a person’s existing award (of incapacity benefit, severe disablement allowance or income support on disability grounds) and specified elements of the ESA for which a claimant is entitled following their reassessment. Paragraph (b) substitutes a new sub-paragraph (c) which provides, with the rest of regulation 21(5) of the Reassessment Regulations, for a termination of the transitional addition to take effect as a suspension instead where a subsequent claim for ESA links to an earlier period of limited capability for work under regulation 145(1) of the Employment and Support Allowance Regulations.

Regulation 4 makes a consequential revocation.

In so far as these Regulations are required, for the purposes of regulations 2(2) and (3) and 3, to be referred to the Social Security Advisory Committee under section 149(2) of the Social Security Administration (Northern Ireland) Act 1992, after agreement by the Social Security Advisory Committee, they have not been so referred by virtue of section 150(1)(b) of that Act. Otherwise they make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, that Act, are not subject to the requirement of section 149(2) for prior reference to the Social Security Advisory Committee.