

---

STATUTORY RULES OF NORTHERN IRELAND

---

**2013 No. 2**

**The Employment and Support Allowance  
(Amendment) Regulations (Northern Ireland) 2013**

**Amendment of Part 6 of the Employment and Support Allowance Regulations**

4.—(1) Part 6 of the Employment and Support Allowance Regulations (limited capability for work-related activity) is amended in accordance with paragraphs (2) and (3).

(2) In regulation 34 (determination of limited capability for work-related activity)—

(a) for paragraph (3) substitute—

“(3) In determining whether a descriptor applies to the claimant, the claimant is to be assessed as if—

- (a) the claimant were fitted with or wearing any prosthesis with which the claimant is normally fitted or normally wears; or, as the case may be,
- (b) wearing or using any aid or appliance which is normally, or could reasonably be expected to be, worn or used.”; and

(b) after paragraph (3) insert—

“(3A) In determining whether a descriptor applies, it is a condition that the claimant’s incapability arises—

- (a) in respect of descriptors 1 to 8, 15(a) and (b) and 16(a) and (b), from a specific bodily disease or disablement;
- (b) in respect of descriptors 9 to 14, 15(c) and (d) and 16(c) and (d), from a specific mental illness or disablement; or
- (c) in respect of—
  - (i) descriptors 1 to 8, 15(a) and (b) and 16(a) and (b), as a direct result of treatment provided by a registered medical practitioner for a specific physical disease or disablement,
  - (ii) descriptors 9 to 14, 15(c) and (d) and 16(c) and (d), as a direct result of treatment provided by a registered medical practitioner for a specific mental illness or disablement.”.

(3) In regulation 35(1)(1) (certain claimants to be treated as having limited capability for work-related activity) for sub-paragraph (b) substitute—

“(b) the claimant is—

- (i) receiving treatment for cancer by way of chemotherapy or radiotherapy,
- (ii) likely to receive such treatment within 6 months after the date of the determination of capability for work-related activity, or
- (iii) recovering from such treatment,

and the Department is satisfied that the claimant should be treated as having limited capability for work-related activity; or”.