

EXPLANATORY MEMORANDUM TO

STEPS TO WORK (MISCELLANEOUS PROVISIONS) ORDER (NORTHERN IRELAND) 2009

S.R. 2009 No. 297

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Employment and Learning to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under the powers conferred by Article 4 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 This Order specifies the legislation for which a person, whilst participating in the employment programme known as Steps to Work and receiving or entitled to receive a training allowance or other associated payment, is not to be treated as being in employment. Rather, that person is to be treated as being engaged in training under Section 1 of the Employment and Training Act (Northern Ireland) 1950. As such, any payment, other than a trading payment made to a person receiving assistance in becoming self-employed, is to be treated as a payment of training allowance.
- 2.2 The primary legislation this applies to is Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Jobseekers (Northern Ireland) Order 1995. The subordinate legislation is defined in the Schedule to the Order.

3. Background

- 3.1 Steps to Work is an employment programme, introduced under powers conferred by Section 1 of the Employment and Training Act (Northern Ireland) 1950. Steps to Work subsumed the provision available within the New Deal for 18 to 24 year olds and New Deal 25+ and introduced additional provision re-branded under a single title. It also refocused provision on job outcomes while maintaining sanctions provisions at the same level as applied under New Deal. The relevant Regulations are the Social Security (Steps to Work) Regulations (Northern Ireland) 2009 (S.R.2009 No.141)
- 3.2 Steps to Work provides a broader range of back to work assistance than that available under New Deal, is tailored to individuals' needs by identifying and tackling their barriers to work and is delivered by specially trained Personal Advisers within the JobCentres/Jobs and Benefit offices located throughout N.Ireland. The programme provides assistance lasting for up to a year for any individual and may consist of a combination of a number of activities an individual undertakes to improve their prospects of obtaining employment. This can include work placements or other work-related activity or experience, skills training, guidance, support, motivation, assistance with job search or pursuing self-employment, or other activity designed to assist the individual to select, train for, obtain and retain suitable employment. Steps to Work participants will remain in receipt of their benefit or receive a training allowance for the duration they are on the programme.
- 3.3 This Order removes any ambiguity as to the status of anybody taking part in Steps to Work so that:
- they are treated as being on training and not as being in employment; *and*
 - any payment they receive is treated as a training allowance and not income. The only exception to this is where a person receives a trading payment for goods or services whilst receiving help to become self-employed.

- 3.4 For the duration that training allowance is payable, this Order protects payments of the benefits, awards or bursaries listed in the Order's Schedule that a Steps to Work participant, or member of their family, may be receiving by ensuring their involvement in the programme is not regarded as remunerative work or providing an income. The Order also ensures that organisations which deliver training or work experience are not penalised by negating the possibility that those benefiting from their services are regarded as employees.
- 3.5 In the course of drafting the Order the Departmental Solicitor's Office advised that the primary legislation under which the Order was being made, the Employment and Training Act (Northern Ireland) 1950 and the Employment and Training (Amendment) (Northern Ireland) Order 1988 (the 1988 Order) applied only to payments made to participants by "the Department" and would not extend to travel expenses paid to participants by contracted providers. In GB the corresponding 1988 Act includes provision for payments from "any person". Therefore, in order to safeguard Steps to Work participants (and those on other Departmental training programmes) fully, it is proposed to include, within the current Employment Bill, an amendment to both the 1950 Act and the 1988 Order to cover payments by other persons.
- 3.6 Payments of a training allowance or for goods or services, to those individuals receiving help to become self-employed as a direct consequence of their participation on Steps to Work, are exempted from this provision of the Order. This is because Her Majesty's Revenue & Customs treat such payments as contributing towards that person's tax-assessable income of their business. Otherwise, training allowance payments are not liable for tax or treated as taxable income.

4. Consultation

- 4.1 No separate consultation was necessary for this rule as these measures are a direct consequential of the measures contained in the Social Security (Steps to Work) Regulations (Northern Ireland) 2009 (S.R. 2009/No 141).

5. Equality Impact

- 5.1 A Preliminary Equality Impact Assessment for Steps to Work has been carried out which concluded that there was no negative impact on any of the Section 75 groups, rather the programme would have a positive impact on equality as it widens access to provision to groups not previously targeted for assistance.

6. Regulatory Impact

6.1 A Regulatory Impact Assessment is not required because the S.R. is of a minor technical nature, designed to protect those participating on Steps to Work and receiving a training allowance, in that they are to be treated as not being in employment, but rather as engaged in training for Social Security purposes. There would be no impact on business, charities, social economy enterprises or voluntary bodies.

7. Financial Implications

7.1 No financial costs arise for the NI Executive.

8. Section 24 of the Northern Ireland Act 1998

8.1 The S.R. is not considered to be in breach of Section 24.

9. EU Implications

9.1 Not applicable

10. Parity or Replicatory Measure

10.1 This Order is in keeping with a corresponding Order being introduced by the Department for Work and Pensions (DWP) on 5th October 2009 for their Flexible New Deal programme. The Order also replicates the provisions of previous Orders for the New Deal programmes which Steps to Work subsumes –New Deal for 18 to 24 year olds, New Deal 25 + (S.Rs. 1998/127, 1998/309 and 2001/110).

11. Additional Information

11.1 Not Applicable.