

EXPLANATORY MEMORANDUM TO

The Income Support (Prescribed Categories of Person) Regulations (Northern Ireland) 2009

SR 2009 No. 418

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under powers conferred by the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c.7) and is subject to the negative resolution procedure.

2. Purpose

- 2.1. These Regulations provide that claimants who are no longer entitled to Income Support on non-disability grounds who have a health condition or disability cease to be entitled to Income Support. However, if they wish to make a claim under these grounds for benefit they can make a claim to Employment and Support Allowance instead. These Regulations do this by removing the provisions of the Income Support (General) Regulations (Northern Ireland) 1987 which allow entitlement to Income Support on grounds of a health condition or disability.

3. Background

- 3.1. Employment and Support Allowance was a new benefit introduced from 27th October 2008 aimed at those who are unable to work due to a health condition or disability. It is eventually intended to replace other working-age disability benefits, including Income Support on such grounds. With a few exceptions, Employment and Support Allowance is the only benefit available to new claimants from its introduction in October 2008.
- 3.2. Currently people making a new claim on the grounds of a health condition or disability, can claim Employment and Support Allowance but not Income Support. The purpose of these Regulations is to ensure that those currently entitled to Income Support on a non-disability ground (such as a lone parent), are put in a similar position, so if they want to receive benefit on the basis of the health condition or disability, they must claim Employment and Support Allowance.
- 3.3. The Regulations also preserve exceptions for new claims to Income Support contained in The Employment and Support (Transitional Provisions) Regulations (Northern Ireland) 2008 so people on Incapacity Benefit who become entitled to Income Support because of a change in income or those already receiving Income Support on disability grounds, for example, those who were claiming before Employment and Support Allowance's introduction, can continue to do so.
- 3.4. After the introduction of Employment and Support Allowance the Social Security (Lone Parents and Miscellaneous Amendments) Regulations

(Northern Ireland) 2008 were introduced in December 2008 to remove a lone parents' entitlement to Income Support solely on the grounds of being a lone parent if they have a youngest child aged 7 and over by October 2010. When implementing this change the policy intent follows that of the introduction of the Employment and Support Allowance so that those lone parents who wanted to make a claim to benefit on the grounds of a disability or health condition should be invited to claim that benefit. However, when this legislation was introduced it did not provide for this. This is why these Regulations have been produced to allow the original policy intent to be implemented from 30th December 2009.

- 3.5. These Regulations also ensure that in cases which occurred, after the introduction of Employment and Support Allowance, where people were no longer entitled to Income Support on non-disability grounds and were wrongly terminated due to official error, their Income Support can be reinstated if that person so wishes.

4. Consultation

- 4.1. The Social Security Advisory Committee considered and cleared the Great Britain proposals at their meeting on 5 November 2009.

5. Equality Impact

- 5.1. The amendments introduced by these Regulations will restore the policy intention and so are in keeping with the earlier screening in the Social Security (Lone Parents and Miscellaneous Amendments) Regulations (Northern Ireland) 2008. As the impact of the unintended effects is judged to be minimal no change is required to the earlier screening.

6. Regulatory Impact

- 6.1. These Regulations do not require a Regulatory Impact Assessment as they do not impose any additional costs or savings on business, charities or voluntary bodies.

7. Financial Implications

- 7.1. There are no financial implications.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has also considered its obligations under section 24 of the Northern Ireland Act 1998. It is the Department's judgement that the Income Support (Prescribed Categories of Person) Regulations (Northern Ireland) 2009 are not incompatible with the Convention rights, are not incompatible with Community law, do not discriminate against any person or class of person on the ground of religious belief or political opinion and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. The Regulations mirror the Great Britain Regulations and are in keeping with the principal of parity between Northern Ireland and Great Britain in social security matters.

11. Additional Information

- 11.1. Not applicable.