EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS NO.5) REGULATIONS (NORTHERN IRELAND) 2010
S.R. 2010 No. 311

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 sections 30E(1), 167D and 171(1) and (4) of, and paragraph 2(3) of Schedule 7 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and sections 3(2)(d),17(3)(b) and 25(2)(a) of, and paragraph 10 of Schedule 2 to, the Welfare Reform Act (Northern Ireland) 2007 and is subject to the negative resolution procedure.

2. Purpose

2.1 These Regulations amend the Social Security (General Benefit) Regulations (Northern Ireland) 1984, the Social Security (Incapacity Benefit) Regulations (Northern Ireland) 1994, the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995 and the Employment and Support Allowance Regulations (Northern Ireland) 2008 to increase the permitted work higher earnings limit from £92.00 to £93.00 per week for Incapacity Benefit and Employment and Support purposes and increase related limits which apply to councillors and recipients of unemployability supplement, in line with the increase in the National Minimum Wage which increases from £5.73 to £5.80 per hour with effect from 1 October 2010.

2.2 Regulation 1 provides for citation and commencement.

2.3 Regulation 2 amends regulation 14 of the Social Security (General Benefit) Regulations (Northern Ireland) 1984 to increase the prescribed amount of earnings in a year, for the purpose of paragraph 2(3) of Schedule 7 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (earnings level for unemployability supplement), from £4,836.00 to £4,940.00.

2.4 Regulation 3 amends regulation 7 of the Social Security (Incapacity Benefit) Regulations (Northern Ireland) 1994 to increase the prescribed amount for the purposes of section 30E(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (limit of earnings from councillor's allowance) from £93.00 to £95.00.

2.5 Regulation 4 amends regulation 17 of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995 to increase the

exempt work earnings limit in paragraphs (3) and (4) from £93.00 to £95.00.

2.6 Regulation 5 amends regulation 45 of the Employment and Support Allowance Regulations (Northern Ireland) 2008 to increase the exempt work earnings limits in paragraphs (3) and (4) from £93.00 to £95.00, and amends regulation 76 to increase the amount of a councillor's allowance which can be received by a claimant before a deduction in the amount of Employment and Support Allowance is made. It also amends Schedule 7 to increase the amount of earnings which can be disregarded when determining entitlement to income-related Employment and Support Allowance.

2.7 Regulation 6 makes consequential revocations.

3. Background

3.1 The permitted work rules allow a claimant in receipt of Employment and Support Allowance or Incapacity Benefit to do some paid work without affecting entitlement to benefit. The work undertaken must be for less than 16 hours a week and earnings must not exceed a set limit. The earnings limit is set at a level that allows people to work for up to 16 hours at National Minimum Wage rate. This is to encourage people to move towards full-time work. If the rate was not aligned to the National Minimum Wage some people could lose entitlement to benefit simply because their earnings increased each October and the value of the earnings limit would be eroded over time.

3.2 The Regulations increase the permitted work earnings limit from £93.00 to £95.00 to take account of the increase in the National Minimum Wage from £5.80 to £5.93 an hour, which will allow claimants to continue to work for up to 16 hours a week.

3.3 The earnings limit for unemployability supplement and the limit for councillor's allowance for Incapacity Benefit and Employment and Support Allowance purposes are also being increased in line with the permitted work higher earnings limit.

4. Consultation

4.1 As the Regulations 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 they do not have to be submitted to the Social Security Advisory Committee.

5. Equality Impact

5.1 The permitted work rules for Incapacity Benefit and Employment and Support Allowance and the earnings limit for unemployability supplement apply to all recipients irrespective of age, gender, religion, disability,

dependants, political opinion, racial group, marital status or sexual orientation. These Regulations make technical amendments which do not have any significant implications for equality of opportunity.

6. Regulatory Impact

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

7. Financial Implications

7.1 Theses Regulations do not have any financial implications for the Department.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—

(a) is not incompatible with any of the Convention rights,

(b) is not incompatible with Community law,

(c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and

(d) does 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 corresponding Great Britain Regulations are the Social Security (Miscellaneous Amendments) (No. 4) Regulations 2010 and come into force on 1 October 2010. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.