STATUTORY RULES OF NORTHERN IRELAND

2004 No. 308

SOCIAL SECURITY

The Social Security (Income Support and Jobseeker's Allowance) (Amendment) Regulations (Northern Ireland) 2004

Made - - - -	*22nd July 2004*
Coming into operation	*4th October 2004*

The Department for Social Development, in exercise of the powers conferred by sections 122(1)(a), 133(2)(b), 167D(1) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and Articles 8(4), 9(4) and 36(2) of, and paragraph 11(2) of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(**2**), and now vested in it(**3**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Income Support and Jobseeker's Allowance) (Amendment) Regulations (Northern Ireland) 2004 and shall come into operation on 4th October 2004.

(2) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Income Support (General) Regulations

2. In regulation 4 of the Income Support (General) Regulations (Northern Ireland) 1987(**5**) (temporary absence from Northern Ireland), after paragraph (3)(**6**) there shall be inserted the following paragraph –

> "(3A) A claimant's entitlement to income support shall continue during a period of temporary absence from Northern Ireland if –

(**1**) 1992 c. 7; section 167D(1) was inserted by Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))
(**2**) S.I. 1995/2705 (N.I. 15); Article 36(2)(a) was amended by Article 4 of and, paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
(**3**) *See* Article 8(b) and Part II of Schedule 6 to, S.R. 1999 No. 481
(**4**) 1954 c. 33 (N.I.)
(**5**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1990 No. 131
(**6**) Paragraph (3) was added by regulation 3(b) of S.R. 1990 No. 131

(a) he satisfied the conditions of entitlement to income support immediately before the beginning of that period of temporary absence; and

(b) that period of temporary absence is for the purpose of the claimant receiving treatment at a hospital or other institution outside Northern Ireland where that treatment is being provided –

(i) under Articles 5(**7**), 7 and 8 of the Health and Personal Social Services (Northern Ireland) Order 1972(**8**) (services generally);

(ii) pursuant to arrangements made under Article 14A of that Order(**9**) (voluntary organisations and other bodies), or

(iii) pursuant to arrangements made under paragraph 13 of Schedule 3 to the Health and Personal Social Services (Northern Ireland) Order 1991(**10**) (Health and Social Services trusts – specific powers).".

Amendment of the Jobseeker's Allowance Regulations

3.—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996(**11**) shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 14(1)(**12**) (circumstances in which a person is to be treated as available) –

(a) after sub-paragraph (k) there shall be inserted the following sub-paragraph –

"(kk) if he is treated as capable of work in accordance with regulation 55A(**13**), for the period determined in accordance with that regulation;"; and

(b) after sub-paragraph (o)(**14**) there shall be added the following sub-paragraph –

"(p) if he is temporarily absent from Northern Ireland in the circumstances prescribed by regulation 50(6AA)(**15**) or, as the case may be, (6C)(**16**).".

(3) In regulation 19(1) (circumstances in which a person is to be treated as actively seeking employment) –

(a) after sub-paragraph (k) there shall be inserted the following sub-paragraph –

"(kk) in any week during which he is for not less than 3 days treated as capable of work in accordance with regulation 55A;"; and

(b) after sub-paragraph (s)(**17**) there shall be added the following sub-paragraph –

"(t) if he is temporarily absent from Northern Ireland in the circumstances prescribed in regulation 50(6AA) or, as the case may be (6C).".

(4) In regulation 50 (persons temporarily absent from Northern Ireland) –

(a) after paragraph (6) there shall be inserted the following paragraph –

"(6AA) For the purposes of the Order a claimant shall be treated as being in Northern Ireland during any period of temporary absence from Northern Ireland if –

(**7**) Article 5 was amended by the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)) and the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8))
(**8**) S.I. 1972/1265 (N.I. 14)
(**9**) Article 14A was inserted by paragraph 2 of Schedule 1 to the Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (N.I. 20))
(**10**) S.I. 1991/194 (N.I. 1); paragraph 13 of Schedule 3 was amended by Schedule 1 to the Health and Personal Social Services (Northern Ireland) Order 1994 (S.I. 1994/429 (N.I. 2))
(**11**) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1997 No. 138, S.R. 2000 No. 350 and S.R. 2001 No. 56
(**12**) Paragraph (1) was amended by regulation 2(2) of S.R. 1997 No. 138
(**13**) Regulation 55A is inserted by regulation 3(6) of these Regulations
(**14**) Sub-paragraph (o) was inserted by regulation 2(2)(c) of S.R. 2001 No. 56
(**15**) Paragraph (6AA) is inserted by regulation 3(4)(a) of these Regulations
(**16**) Paragraph (6C) is inserted by regulation 3(4)(b) of these Regulations
(**17**) Sub-paragraph (s) was inserted by regulation 2(3)(c) of S.R. 2001 No. 56