STATUTORY RULES OF NORTHERN IRELAND

1996 No. 356

SOCIAL SECURITY

The Jobseeker's Allowance (Amendment) Regulations (Northern Ireland) 1996

Made - - - -	*1st August 1996*
Coming into operation	*7th October 1996*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 6(2) and (5), 11(1) and (10), 14(1) and (4), 15(1), 21(7) and (8) and 22(4), (5) and (6) of, and paragraphs 1, 5, 8, 10, 16 and 17 of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(**1**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Part I

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Jobseeker's Allowance (Amendment) Regulations (Northern Ireland) 1996 and shall come into operation on 7th October 1996, immediately following the coming into operation of the Jobseeker's Allowance Regulations.

(2) In these Regulations—

"the Order" means the Jobseekers (Northern Ireland) Order 1995;

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**2**).

(**1**) S.I.1995/2705 (N.I. 15)
(**2**) S.R. 1996 No. 198

Part II

Jobseeking

Jobseeker's Agreement treated as having been made

2. In regulation 34 of the Jobseeker's Allowance Regulations (jobseeker's agreement treated as having been made) after paragraph (*d*) there shall be added the following paragraph—

"(e) where the claimant was in receipt of a training allowance and was, in accordance with regulation 168, entitled to an income-based jobseeker's allowance without—

(i) being available for employment;

(ii) having entered into a jobseeker's agreement, or

(iii) actively seeking employment,

for the period beginning with and including the date on which regulation 168 ceased to apply to him and ending on the date on which he has an interview with an employment officer for the purpose of drawing up a jobseeker's agreement.".

Definition of young person

3. In regulation 57(1) of the Jobseeker's Allowance Regulations (interpretation of Part IV) for the definition of "young person" there shall be substituted the following definition—

""young person" means a person who has reached the age of 16 but not the age of 18 and who does not satisfy the conditions in Article 4 of the Order or whose entitlement to a contribution-based jobseeker's allowance has ceased as a result of Article 7(1) of the Order.".

Voluntary redundancy

4. In regulation 71(1) of the Jobseeker's Allowance Regulations (voluntary redundancy)—

(a) in sub-paragraph (*a*) at the end "or" shall be omitted, and

(b) after sub-paragraph (*b*) there shall be added the following sub-paragraph—

", or

(c) where he has been laid off or kept on short-time to the extent specified in section 16(1) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(**3**) and has complied with the requirements of that section.".

Good cause for the purposes of Article 21(5)(b) of the Order

5. In regulation 73(2) of the Jobseeker's Allowance Regulations (good cause for the purposes of Article 21(5)(*b*) of the Order) after sub-paragraph (*i*) there shall be added the following sub-paragraph—

"(j) the claimant gave up a place on a training scheme and if he had continued to participate in it he would have, or would have been likely to have, put his health and safety at risk.".

(**3**) 1965 c. 19 (N.I.)

Person in receipt of a training allowance

6. After regulation 74 of the Jobseeker's Allowance Regulations (person of prescribed description for the purposes of Article 22(3) of the Order) there shall be inserted the following regulation—

"**Person in receipt of a training allowance**

74A.—(1) An income-based jobseeker's allowance shall be payable to a claimant even though Article 21 of the Order prevents payment of a jobseeker's allowance to him where the claimant is in receipt of a training allowance and is not receiving training falling within regulation 168(2) but the jobseeker's allowance shall be payable only if and for so long as he satisfies the conditions of entitlement to an income-based jobseeker's allowance other than those which he is not required to meet by virtue of regulation 168.

(2) An income-based jobseeker's allowance which is payable to a claimant in accordance with this regulation shall be payable to him at the full rate applicable in his case.".

Part III

Miscellaneous

Remunerative work

7. In regulation 51 of the Jobseeker's Allowance Regulations (remunerative work)—

(a) after paragraph (1)(*b*) there shall be added the following sub-paragraph—

"and

(c) in the case of a non-dependant, or of a child or young person to whom paragraph 18 of Schedule 5 refers, work in which he is engaged, or, where his hours of work fluctuate, is engaged on average, for not less than 16 hours per week,", and

(b) in paragraph (3)(*c*)—

(i) in head (i) "under section 64 of the Benefits Act" shall be omitted;

(ii) in head (ii) "to which section 64 of the Benefits Act applies" shall be omitted, and

(iii) in head (iii) for "Benefits Act." there shall be substituted—

"Benefits Act, or

(iv) a person who has claimed either attendance allowance or disability living allowance and has an award of attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act for a period commencing after the date on which that claim was made.".

Persons from abroad

8.—(1) In regulation 85(4) of the Jobseeker's Allowance Regulations (special cases)—

(a) in the first definition of "person from abroad" after paragraph (*h*) there shall be added the following paragraphs—

"(i) has been given leave to enter, or remain in, the United Kingdom by the Secretary of State upon an undertaking given by another person in writing in pursuance of immigration rules within the meaning of the 1971 Act, to

be responsible for his maintenance and accommodation; and he has not been resident in the United Kingdom for a period of at least 5 years beginning from and including the date of entry or the date on which the undertaking was given in respect of him, whichever date is the later, or

(j) while he is a person to whom any of the definitions in paragraphs (*a*) to (*i*) of this definition applies, submits a claim to the Secretary of State, which is not finally determined, for asylum under the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the Protocol to that Convention,

and for the purposes of this definition "the immigration authorities" means an adjudicator, an immigration officer or an immigration appeal tribunal appointed for the purposes of the 1971 Act and in addition means the Secretary of State.", and

(b) in the second definition of "person from abroad" for "the Republic of Ireland, the Channel Islands or the Isle of Man" there shall be substituted "the Channel Islands, the Isle of Man or the Republic of Ireland".

(2) In regulation 147 of the Jobseeker's Allowance Regulations (urgent cases) for paragraphs (3) to (5) there shall be substituted the following paragraphs—

"(3) This paragraph applies to a person from abroad within the meaning of regulation 85(4) (special cases) who—

(a) is an asylum seeker, and

(b) holds a work permit or has written authorisation from the Secretary of State permitting him to work in the United Kingdom.

(4) For the purposes of this regulation, a person—

(a) is an asylum seeker when he submits on his arrival (other than on his re-entry) in the United Kingdom from a country outside the Common Travel Area, a claim for asylum to the Secretary of State that it would be contrary to the United Kingdom's obligations under the Convention for him to be removed from, or required to leave, the United Kingdom and that claim is recorded by the Secretary of State as having been made, or

(b) becomes, while present in Northern Ireland, an asylum seeker when—

(i) the Secretary of State makes a declaration to the effect that the country of which that person is a national is subject to such a fundamental change in circumstances that he would not normally order the return of a person to that country;

(ii) he submits, within a period of 3 months from and including the day that declaration was made, a claim for asylum to the Secretary of State under the Convention, and

(iii) his claim for asylum under the Convention is recorded by the Secretary of State as having been made, and

(c) ceases to be an asylum seeker—

(i) in the case of a claim for asylum which, on or after 5th February 1996, is recorded by the Secretary of State as having been determined (other than on appeal) or abandoned, on the date on which it is so recorded, or

(ii) in the case of a claim for asylum which is recorded as determined before 5th February 1996 and in respect of which there is either an appeal pending on 5th February 1996 or an appeal is made within the time limits specified in

rule 5 of the Asylum Appeals (Procedure) Rules 1993(**4**) (notice of appeal), on the date on which that appeal is determined.

(5) In this regulation—

"the Common Travel Area" means the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland collectively;

"the Convention" means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the Protocol to that Convention;

"work permit" has the meaning that it bears in the 1971 Act by virtue of section 33(1) of that Act.".

Capital limit

9. For regulation 107 of the Jobseeker's Allowance Regulations (capital limit) there shall be substituted the following regulation—

"**107.** For the purposes of Article 15(1) of the Order (no entitlement to an income-based jobseeker's allowance if capital exceeds a prescribed amount)—

(a) except where paragraph (*b*) applies, the prescribed amount is £8,000;

(b) in a case to which regulation 116(1B)(**5**) applies, the prescribed amount is £16,000.".

Calculation of tariff income from capital

10. In regulation 116 of the Jobseeker's Allowance Regulations (calculation of tariff income from capital)—

(a) in paragraph (1) at the beginning there shall be inserted "Except in a case to which paragraph (1B) applies,";

(b) after paragraph (1) there shall be inserted the following paragraphs—

"(1A) In the case of a claimant to whom paragraph (1B) applies and whose capital calculated in accordance with Chapter VI of this Part exceeds £10,000 it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £10,000 but not exceeding £16,000.

(1B) This paragraph applies where the claimant lives permanently in—

(a) a residential care or nursing home, or residential accommodation and that home or accommodation provides board and personal care for the claimant by reason of his disablement, past or present dependence on alcohol or drugs, or past or present mental disorder, or

(b) an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society.

(1C) For the purpose of paragraph (1B), a claimant shall be treated as living permanently in such home or accommodation where he is absent from that home or accommodation for a period not exceeding 13 weeks.";

(c) in paragraphs (2) and (3) for "paragraph (1)" in each place where those words occur there shall be substituted "paragraphs (1) and (1A)", and

(d) after paragraph (3) there shall be added the following paragraph—

(**4**) S.I. 1993/1661

(**5**) Paragraph (1B) is inserted by regulation 10 of these Regulations