# 1989 No. 365

# SOCIAL SECURITY

## The Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1989

*Made* . . . . . *8th September 1989*

*Coming into operation* . . *9th October 1989*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(3)(*d*) and (12)(*c*) and (*d*) and 23(1), (8) and (9) of the Social Security (Northern Ireland) Order 1986(**a**) 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 Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1989 and shall come into operation on 9th October 1989.

(2) In these regulations "the principal regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**b**).

*Amendment of regulation 2 of the principal regulations*

**2.** In regulation 2(1) of the principal regulations (interpretation) after the definition of "training allowance" there shall be inserted the following definition—

" "unemployment benefit" means unemployment benefit under the principal Act(**c**);".

*Amendment of regulation 5 of the principal regulations*

**3.** In regulation 5(5) of the principal regulations (persons treated as engaged in remunerative work) for "regulation 35(1)(*b*) to (*d*)" there shall be substituted "regulation 35(1)(*b*) to (*d*) and (*j*)(**d**)".

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(**a**) S.I. 1986/1888 (N.I. 18); Article 21 was amended by Article 15 of the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)); Article 81(1) provides for section 155(1) to (3A) of the Social Security (Northern Ireland) Act 1975 (c. 15) (extent of powers) to apply to the regulation-making powers conferred by this Order; the said section 155(3A) was inserted by Article 63(1)

(**b**) S.R. 1987 No. 459; the relevant amending regulations are S.R. 1988 Nos. 146, 318 and 431

(**c**) 1975 c. 15; *see* sections 12(1)(*a*) and 14; section 12(1)(*a*) was amended by the Schedule to the Social Security (No. 2) (Northern Ireland) Order 1980 (S.I. 1980/1087 (N.I. 13)) and paragraph 1(*a*) of Schedule 3 to the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)); section 14 was amended by Article 20(1) of, and paragraph 21 of Schedule 5 to, the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)), paragraph 5 of Schedule 3 to the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)), the Schedule to the Social Security (No. 2) (Northern Ireland) Order 1980, Article 32(3) of, and paragraph 5 of Schedule 4 to, the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16)), paragraph 53 of Schedule 9 to the Social Security (Northern Ireland) Order 1986 and Schedule 9 to the Social Security (Northern Ireland) Order 1989

(**d**) Sub-paragraph (*j*) is inserted by regulation 11(*a*)(iii) of these regulations

*Amendment of regulation 7 of the principal regulations*

**4.** In regulation 7 of the principal regulations (meaning of employment)—

(*a*) the existing provision shall be numbered as paragraph (1);

(*b*) after ''income support)'' there shall be inserted ''in so far as it relates to the condition of availability for employment'';

(*c*) after paragraph (1) there shall be added the following paragraph—

''(2) For the purposes of Article 21(3)(*d*) of the Order in so far as it relates to the condition of actively seeking employment, work which is treated as employment for the purposes of paragraph (1) and employment as a self-employed earner under any scheme for assisting claimants to become self-employed earners established pursuant to arrangements made by the Department of Economic Development under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(**a**) shall be treated as employment.''.

*Amendment of regulation 10 of the principal regulations*

**5.** In regulation 10 of the principal regulations (circumstances in which claimants are not to be treated as available for employment)—

(*a*) in paragraph (1)—

(i) in sub-paragraphs (*a*) and (*b*) ''suitable'' shall be omitted,

(ii) in sub-paragraph (*d*) at the beginning there shall be inserted ''subject to paragraphs (4) to (6),''; and for heads (ii) and (iii) there shall be substituted the following heads—

''(ii) the restrictions are reasonable in view of his physical or mental condition, or

(iii) he has a usual occupation and those restrictions relate to it and are consistent with conditions which are usual in that occupation;'';

(*b*) in paragraph (3) sub-paragraph (*a*) shall be omitted;

(*c*) after paragraph (3) there shall be added the following paragraphs—

''(4) A determination that paragraph (1)(*d*) does not apply by reason of the circumstances prescribed in head (iii) of that paragraph shall have effect for a period not exceeding 13 weeks beginning—

(*a*) in a case where the claimant is not entitled to unemployment benefit and has not been entitled to that benefit for any day since he was last in remunerative work, on the first day for which the claimant makes a claim for income support since the last day on which he was in remunerative work, or vocational training in his usual occupation, or incapable of work;

(*b*) in any other case, on the first day for which a claim for unemployment benefit is made since the claimant was last in remunerative work.

(**a**) 1950 c. 29 (N.I.); section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

(5) In determining the length of the period for the purposes of paragraph (4) regard shall be had to—

(*a*) the claimant's usual occupation and any relevant skills and qualifications which he has acquired;

(*b*) the length of the periods during which he has undergone training relevant to his usual occupation;

(*c*) the length of the periods during which he has been employed in his usual occupation and the period since he was last so employed; and

(*d*) the availability and location of employment in his usual occupation.

(6) For the purposes of paragraph (1)(*d*), in deciding whether a claimant has no reasonable prospects of securing employment regard shall be had, in particular, to the length of the period during which he has been unemployed.''.

*Insertion of regulation 10A in the principal regulations*

**6.** After regulation 10 of the principal regulations (circumstances in which claimants are not to be treated as available for employment) there shall be inserted the following regulation—

''*Actively seeking employment*

**10A.**—(1) A claimant shall not be required to be a person who is actively seeking employment where, by virtue of regulation 8 (persons not required to be available for employment), he is not required to be available for employment.

(2) A claimant, other than a person to whom regulation 10(1)(*h*) applies, shall not be required to be a person who is actively seeking employment during any week in which the adjudication officer is satisfied that, unless income support is paid, the claimant or a member of his family (if any) will suffer hardship.

(3) Subject to paragraph (4), a claimant shall be treated as actively seeking employment in any week if, and only if, he takes such steps in that week as he would be required to take under regulations made under section 17(2)(*aa*)(i) of the principal Act(**a**) in order to be regarded as actively seeking employed earner's employment in that week for the purposes of that section.

(4) A claimant shall be treated as actively seeking employment in respect of any week for which he is, or would have been had he made a claim for unemployment benefit, deemed to have been actively seeking employment under regulations made under section 17(1)(*a*)(i) of the principal Act(**b**).

(5) For the purposes of this regulation, in relation to a claimant, ''week'' has the meaning prescribed in regulations made under section 17(2)(*aa*)(ii) of the principal Act which—

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(**a**) Section 17(2)(*aa*) was inserted by Article 12(3) of the Social Security (Northern Ireland) Order 1989

(**b**) Section 17(1)(*a*)(i) was amended by Article 12(2) of the Social Security (Northern Ireland) Order 1989

(*a*) if he is entitled to unemployment benefit, applies in his case; and

(*b*) if he is not entitled to unemployment benefit, would have applied in his case if each of the days for which he claims income support would have fallen within a period of interruption of employment had he claimed unemployment benefit under that Act in respect of those days.

(6) In this regulation "a period of interruption of employment" has the meaning assigned to it by section 17(1)(*d*) of the principal Act(**a**).".

*Amendment of regulation 22 of the principal regulations*

**7.** In regulation 22(5) of the principal regulations (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification) after "available for employment)" there shall be inserted "or a claimant who is not required to be actively seeking employment by virtue of regulation 10A(2) (actively seeking employment)".

*Amendment of regulation 28 of the principal regulations*

**8.** In regulation 28(2) of the principal regulations (calculation of income) for the words from "regulations 41 to 43" to the end there shall be substituted "regulations 41 and 42 (capital treated as income and notional income).".

*Amendment of regulation 29 of the principal regulations*

**9.** In regulation 29 of the principal regulations (calculation of earnings derived from employed earner's employment and income other than earnings)—

(*a*) in paragraph (2) for "and (4A)" there shall be substituted "and (4A) to (4D)";

(*b*) for paragraph (4) there shall be substituted the following paragraph—

"(4) In a case to which paragraph (3) applies, earnings under regulation 35 (earnings of employed earners) shall be taken into account in the following order of priority—

(*a*) earnings normally derived from the employment;

(*b*) any payment to which paragraph (1)(*b*) or (*c*) of that regulation applies;

(*c*) any payment to which paragraph (1)(*j*) of that regulation applies;

(*d*) any payment to which paragraph (1)(*d*) of that regulation applies.";

(*c*) after paragraph (4A) there shall be inserted the following paragraphs—

"(4B) Where earnings to which regulation 35(l)(*j*)(i) applies are paid in respect of or on the termination of any employment which is not part-time employment, the period over which they are to be taken into account shall be—

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(**a**) Section 17(1)(*d*) was substituted by Article 3(1) of the Social Security (No. 2) (Northern Ireland) Order 1980