1979 No. 211

SOCIAL SECURITY

The Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1979

Made . . . . . 20*th June* 1979

Coming into operation . . . 20*th August* 1979

The Department of Health and Social Services for Northern Ireland, in exercise of powers conferred by sections 16(1), 17(1)(*a*) and (*e*), 17(2), 20, 33(2) and (3), 79(3) and (4) and 126 of the Social Security (Northern Ireland) Act 1975(**a**) and paragraphs 3 and 9 of Schedule 3 to the Social Security (Consequential Provisions) Act 1975(**b**), 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 (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1979 and shall come into operation on 20th August 1979.

(2) In these regulations, unless the context otherwise requires, "the Act" means the Social Security (Northern Ireland) Act 1975.

(3) Unless the context otherwise requires, any reference in these regulations—

(*a*) to a numbered section or Schedule is to the section of or, as the case may be, the Schedule to the Act bearing that number;

(*b*) to a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number.

Persons deemed to be incapable of work

2.—(1) A person who is not incapable of work may be deemed to be incapable of work by reason of some specific disease or bodily or mental disablement for any day on which either—

(*a*) (i) he is under medical care in respect of a disease or disablement as aforesaid,

(ii) it is certified by a registered medical practitioner that for precautionary or convalescent reasons consequential on such disease or disablement he should abstain from work, and

(iii) he does not work; or

(*b*) he is excluded from work on the certificate of the chief administrative medical officer of a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(**c**) or such other medical officer of that Board as

(a) 1975 c. 15
(b) 1975 c. 18
(c) S.I. 1972/1265 (N.I. 14)

the chief administrative officer may authorise and is under medical observation by reason of his being a carrier, or having been in contact with a case, of infectious disease.

(2) A person who at the commencement of any day is or thereafter on that day becomes incapable of work by reason of some specific disease or bodily or mental disablement and does no work as an employed earner or self-employed earner on that day shall be deemed to be so incapable of work throughout that day.

Special provisions relating to day substituted for Sunday

3.—(1) In the case of a person who—

(*a*) in any week in which, in the normal course, he would work as an employed earner on not more than 6 days including the Sunday, is unemployed on that Sunday; and

(*b*) claims unemployment benefit for that Sunday,

the day of that week on which, in the normal course, he would not work as an employed earner, or if that week contains more than one day on which in the normal course he would not so work the later or last of those days, shall be substituted for that Sunday as a day which, by virtue of section 17(1)(*e*), is not to be treated as a day of unemployment or of incapacity for work for the purposes of any provision of the Act relating to unemployment, sickness or invalidity benefit, and, for those purposes, is to be disregarded in computing any period of consecutive days.

(2) In the application to a person of paragraph (1)(*a*), no account shall be taken of any period of short-time working due to adverse industrial conditions in determining whether in any week, in the normal course, a person would work as an employed person on not more than 6 days including the Sunday.

(3) In the case of a person who—

(*a*) in any week, in the normal course, would not work as an employed person on the Sunday;

(*b*) objects on religious grounds to working on a specific day in each week other than Sunday, but does not so object to working on Sunday; and

(*c*) in respect of that week is unemployed on and claims unemployment benefit for Sunday,

that specific day shall in that week be substituted for Sunday as a day which, by virtue of section 17(1)(*e*), is not to be treated as a day of unemployment or of incapacity for work for the purposes of any provision of the Act relating to unemployment, sickness or invalidity benefit, and, for those purposes, is to be disregarded in computing any period of consecutive days.

Night workers

4.—(1) For the purposes of unemployment benefit, sickness benefit and invalidity benefit, where a period of employment commencing on any day extends over midnight into the following day, the person employed shall, in respect of such period—

(*a*) be treated as having been employed on the first day only, if the employment before midnight is of longer duration than that after midnight, and, in that case, the first day shall not be treated as a day of interruption of employment; or

(*b*) be treated as having been employed on the second day only, if the employment after midnight is of longer duration than that before midnight, or if the employment before and after midnight is of equal duration, and, in either of these cases, the second day shall not be treated as a day of interruption of employment.

(2) Where a person—

(*a*) is, by virtue of paragraph (1), to be treated as having been employed on one day only of two days; and

(*b*) throughout that part of the other of those two days during which he is not employed, is, or is deemed in accordance with regulations to be, available to be employed in employed earner's employment or incapable of work by reason of some specific disease or bodily or mental disablement,

that person shall be deemed to be so available or, as the case may be, to be so incapable of work, throughout that other of those two days.

(3) Where a person—

(*a*) is, by virtue of paragraph (1), to be treated as having been employed on the second day only of two days; and

(*b*) throughout the day immediately preceding the first of those two days is, or is deemed in accordance with regulations to be, incapable of work by reason of some specific disease or bodily or mental disablement,

that person shall, for the purposes of sickness or invalidity benefit, be deemed to be so incapable of work throughout the first of those two days.

Provisions relating to suspension of employment in employed earner's employment

5.—(1) Where an employed earner's employment has not been terminated but a person's employment therein has been suspended, that employment shall for the purpose of section 17(1)(*b*) as substituted by section 17(3)(*a*) be treated as having been terminated if the occupation in that employment is one which falls to be disregarded under the provisions of regulation 6(1)(*h*).

(2) For the purpose of section 17(1)(*b*) as substituted by section 17(3)(*a*) a person's employment in an employed earner's employment shall be treated as having been suspended, notwithstanding that he is or was incapable of work on any day, if it would have been so treated had that person not been incapable of work on that day, and any such day of incapacity shall be treated as the first or a later day in a continuous period of suspension if it would have been so treated had that person not been incapable of work on that day.

(3) For the purpose of determining the seventh or a later day in a continuous period of days on which an employed earner's employment has been suspended by the employer, there shall be disregarded the last day on which work in that employment was available to the employed earner and any days before that day.

Days not to be treated as days of unemployment or incapacity for work

6.—(1) For the purposes of unemployment, sickness and invalidity benefit—

(*a*) where in respect of any day a person places restrictions on the nature, hours, rate of remuneration or locality or other conditions of employment which he is prepared to accept and as a consequence of those

restrictions has no reasonable prospects of securing employment, that day shall not be treated as a day of unemployment unless—

(i) he is prevented from having reasonable prospects of securing employment consistent with those restrictions only as a result of adverse industrial conditions in the locality or localities concerned which may reasonably be regarded as temporary, and, having regard to all the circumstances, personal and other, the restrictions which he imposes are reasonable; or

(ii) the restrictions are nevertheless reasonable in view of his physical condition; or

(iii) the restrictions are nevertheless reasonable having regard both to the nature of his usual occupation and also to the time which has elapsed since he became unemployed;

(*b*) a day shall not be treated as a day of unemployment if it is a day in respect of which a person is disqualified for receiving unemployment benefit;

(*c*) a day shall not be treated as a day of incapacity for work if it is a day in respect of which a person is disqualified for receiving sickness benefit or invalidity benefit;

(*d*) a day shall not be treated as a day of unemployment if it is a day in respect of which a person receives a payment (whether or not a payment made in pursuance of a legally enforceable obligation) in lieu either of notice or of the remuneration which he would have received for that day had his employment not been terminated, so however that this sub-paragraph shall not apply to any day which does not fall within the period of one year from the date on which the employment of that person terminated;

(*e*) subject to paragraph (2), a day shall not be treated as a day of unemployment if on that day a person does no work and is a person who does not ordinarily work on every day in a week (exclusive of Sunday or the day substituted for it by regulation 3) but who is, in the week in which the said day occurs, employed to the full extent normal in his case, and in the application of this sub-paragraph to any person, no account shall be taken, in determining either the number of days in a week on which he ordinarily works or the full extent of employment in a week which is normal in his case, of any period of short-time working due to adverse industrial conditions;

(*f*) a day shall not be treated as a day of incapacity for work if on that day a person is attending—

(i) a training course provided by or on behalf of the Department of Manpower Services, or

(ii) a training course or course of instruction provided in pursuance of arrangements made with that Department by any public authority, firm or person,

and payment of training allowance is made by or on behalf of the said Department, to the said person for his attendance at any of the said courses;

(*g*) a day shall not be treated as a day of incapacity for work if a person does any work on that day, other than—

(i) work which is undertaken under medical supervision as part of his treatment while he is a patient in or of a hospital or similar institution, or

(ii) work which is not so undertaken and which he has good cause for doing,

and from which, in the case of work of either description, his earnings, if any, are ordinarily not more than £11·00 a week;

(*h*) subject to regulation 8, a day shall not be treated as a day of unemployment if on that day a person is engaged in any employment unless the earnings derived from that employment, in respect of that day, do not exceed 75 pence, or, where the earnings are earned in respect of a longer period than a day, the earnings do not on the daily average exceed that amount, and unless he is available on that day to be employed full-time in some employed earner's employment and the employment in which he is engaged is consistent with that full-time employment and, if the employment in which he is engaged is employed earner's employment, it is not in his usual main occupation;

(*i*) subject to heads (i) and (ii) of this sub-paragraph, where in the case of any person an employed earner's employment has not been terminated, a day shall not be treated as a day of unemployment if it is a day of recognised or customary holiday in connection with that employment, unless that person's employment therein has been indefinitely suspended and the day in question is the seventh or a later day, ascertained in accordance with section 17(1)(*b*) as substituted by section 17(3)(*a*) in a continuous period of days on which that suspension has lasted;

(i) for the purposes of this sub-paragraph and of section 17(1)(*b*) as substituted by section 17(3)(*a*) where a person is engaged in Northern Ireland under a contract of service (hereafter in this head of this sub-paragraph referred to as "the subsisting contract") any day of recognised or customary holiday in connection with his employment under the subsisting contract (hereafter in this head of this sub-paragraph referred to as "the relevant day") which occurs during the currency of that contract shall not be deemed to be such a day of holiday, if, in the period beginning on the 1st March next preceding the relevant day and ending immediately before the relevant day, the number of days of recognised or customary holiday which he has had in connection with any employment in which he has been engaged in Northern Ireland under a contract of service equals or exceeds the number of days of recognised or customary holiday in connection with his employment under the subsisting contract in the period of twelve months beginning on the first day of his employment under the subsisting contract or on the 1st March next preceding the relevant day, whichever is the later,

(ii) in computing any number of days of recognised or customary holiday for the purpose of the application of head (i) of this sub-paragraph in relation to any person there shall be disregarded any day for which he has been paid unemployment benefit and any day which is a Bank Holiday or other public holiday applying in this case, or any other day of holiday granted in lieu thereof;

(*j*) where the Department has given or sent a written notice to a person directing him to report to a local office of the Department of Manpower Services on a specified day and at a specified place for an interview in connection with the obtaining of employment and that person fails to comply with the requirements of that notice, then the specified day and any subsequent day falling before a day on which that person