# 1989 No. 364

# SOCIAL SECURITY

## The Social Security (Unemployment, Sickness and Invalidity Benefit) (Amendment No. 2) Regulations (Northern Ireland) 1989

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

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

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 17(1)(*a*)(i), (2)(*a*) and (2)(*aa*), 18(2B) and (4), 20(3) and (4) and 20A(2) and (3) of, and Schedule 17 to, the Social Security (Northern Ireland) Act 1975(**a**) and Article 5(2) of the Social Security (No. 2) (Northern Ireland) Order 1980(**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) (Amendment No. 2) Regulations (Northern Ireland) 1989 and shall come into operation on 9th October 1989.

(2) In these regulations "the principal regulations" means the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1984(**c**).

(3) The Interpretation Act 1978(**d**) shall apply to these regulations as it applies to an Act of the United Kingdom Parliament.

*Amendment of regulation 1 of the principal regulations*

**2.** In regulation 1(2) of the principal regulations (interpretation) in the appropriate places in alphabetical order there shall be inserted the following definitions—

" "employment or training programme" means a course or programme of rehabilitation or training which is provided or arranged by the Department of Economic Development under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland)

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(**a**) 1975 c. 15; section 17(1)(*a*) was amended by Article 12(2) of the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)) and section 17(2)(*aa*) was inserted by Article 12(3) of that Order; section 18(2B) was substituted by Article 13 of that Order and section 18(4) was substituted by Article 44(1) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)); section 20(4) was substituted by Article 14(3) of the Social Security (Northern Ireland) Order 1989; section 20A was inserted by Article 14(4) of that Order; Schedule 17 was amended by Article 14(5) of that Order

(**b**) S.I. 1980/1087 (N.I. 13); Article 5(2) was amended by Article 11(1) of the Social Security (Northern Ireland) Order 1989

(**c**) S.R. 1984 No. 245; relevant amending regulations are S.R. 1986 No. 82, S.R. 1988 Nos. 169, 355 and 434 and S.R. 1989 No. 194

(**d**) 1978 c. 30

1945(**a**) or section 1(1) of the Employment and Training Act (Northern Ireland) 1950(**b**) for the purpose of assisting persons to select, train for, obtain and retain employed earner's employment;

"Outward Bound course" means any course or programme for personal development which is made available to persons who are not in employment by the charitable trust known as the Outward Bound Trust Limited;

"training allowance" means a training allowance paid under the Employment and Training Act (Northern Ireland) 1950;".

*Insertion of regulation 6A in the principal regulations*

**3.** After regulation 6 of the principal regulations (provisions relating to suspension of employment in employed earner's employment) there shall be inserted the following regulation—

"*Requalification period*

**6A.**—(1) Where paragraph (2) applies to a person during one or more of the 26 weeks referred to in subsection (2) of section 18(**c**) (requalification for unemployment benefit) which applies in his case, for the reference to 26 weeks in that subsection there shall be substituted a reference to the period prescribed under paragraph (3).

(2) This paragraph applies to a person in respect of any week if he does not work in employed earner's employment for 16 hours or more and on at least one day in that week—

(*a*) he was a person entitled to receive sickness benefit, invalidity pension, maternity allowance, invalid care allowance or severe disablement allowance;

(*b*) he was incapable of work for the purposes of section 14(1)(*b*) (sickness benefit) or treated as incapable of work by virtue of section 22(4)(**d**) (state maternity allowance);

(*c*) he was a person entitled to receive statutory sick pay within the meaning of Article 3(1) of the Social Security (Northern Ireland) Order 1982(**e**) or statutory maternity pay within the meaning of Article 47(1) of the Social Security (Northern Ireland) Order 1986(**f**); or

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(**a**) 1945 c. 6 (N.I.); sections 2 and 3 were amended by section 1 of the Disabled Persons (Employment) Act (Northern Ireland) 1960 (c. 4 (N.I.)) and Schedule 18 to the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3)). *See also* Ministries Act (Northern Ireland) 1946 (c. 11 (N.I.)), section 2 for change in style of Ministry of Labour to Ministry of Labour and National Insurance; S.R. & O. (N.I.) 1964 No. 205, Article 3 for change in style of Ministry of Labour and National Insurance to Ministry of Health and Social Services; S.R. & O. (N.I.) 1973 No. 504, Article 6 for transfer of functions from Ministry of Health and Social Services to Department of Manpower Services and S.I. 1982/846 (N.I. 11), Article 3 for renaming the Department of Manpower Services the Department of Economic Development

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

(**c**) Section 18(2) was substituted by Article 13 of the Social Security (Northern Ireland) Order 1989

(**d**) Section 22 was substituted by paragraph 13 of Schedule 4 to the Social Security (Northern Ireland) Order 1986 and subsection (4) was amended by paragraph 2(*a*) of Schedule 4 to the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2))

(**e**) S.I. 1982/1084 (N.I. 16)

(**f**) S.I. 1986/1888 (N.I. 18)

(*d*) he was a person undergoing any employment or training programme for which a training allowance is payable.

(3) For the purposes of paragraph (1), the period shall be either—

(*a*) the period immediately preceding the day mentioned in section 18(2)(*a*) or (*b*) (as the case may be)—

(i) which includes the last 26 weeks (whether consecutive or not) in respect of which paragraph (2) did not apply to the person, and

(ii) which begins on the first day of those 26 weeks; or

(*b*) 78 weeks,

whichever is the shorter.''.

*Amendment of regulation 7 of the principal regulations*

**4.** In regulation 7 of the principal regulations (days not to be treated as days of unemployment or incapacity for work)—

(*a*) in paragraph (1)—

(i) sub-paragraph (*a*) shall be omitted,

(ii) for sub-paragraph (*d*) there shall be substituted the following sub-paragraph—

''(*d*) where in any case the employment of a person is terminated and he receives compensation, a day shall not be treated as a day of unemployment if it is a day—

(i) which falls within the ineligible period as defined in paragraph (5), and

(ii) which falls within the period of 52 weeks beginning with the day following the termination of the employment;'';

(*b*) after paragraph (4) there shall be added the following paragraphs—

''(5) For the purposes of paragraph (1)(*d*), ''the ineligible period'' is the period which begins on the day following the termination of the employment and ends—

(*a*) in a case where the person who paid the compensation represents that it, or part of it, was paid in lieu of notice of termination of employment or on account of the early termination of a contract of employment for a term certain—

(i) on the due date, unless sub-paragraph (*b*) of this paragraph also applies, or

(ii) if that sub-paragraph does apply, on the date determined under it;

(*b*) in a case where the person who paid the compensation represents that it, or part of it, was paid in lieu of consultation under Article 49 of the Industrial Relations (Northern Ireland) Order 1976(**a**) (duty of employer to consult trade union representatives on redundancy), on the later of—

(a) S.I. 1976/1043 (N.I. 16); Article 49 was amended by Article 2(*a*) of S.R. 1979 No. 305

(i) the day on which the consultation period under that Article would have ended, and

(ii) where sub-paragraph (*a*) of this paragraph also applies, the due date or, where that sub-paragraph does not apply, the standard date; or

(*c*) in any other case, the standard date.

(6) In this regulation—

"compensation" means any payment made to or for a person in respect of the termination of the employment other than—

(*a*) any remuneration paid in respect of the period before the termination;

(*b*) any holiday pay;

(*c*) any payment not falling within paragraph (*a*) or (*b*) of this definition which is paid in respect of any emolument of the employment (whether in money or in kind) and which has accrued before the termination of the employment;

(*d*) any redundancy payment within the meaning of section 11(1) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(**a**); and

(*e*) any refund of contributions to which he was entitled under an occupational pension scheme within the meaning of Article 2(2) of the Pensions Order(**b**);

"due date", in relation to the termination of a person's employment, means whichever of the following dates is applicable in his case, that is to say—

(*a*) the date on which any period of notice applicable to the person was due to expire or would have been due to expire if it had not been waived;

(*b*) where he had a contract of employment for a term certain, the date on which it was due to expire,

and for the purpose of paragraph (*a*) of this definition "period of notice" means the period of notice of termination of employment to which a person is entitled by statute or by contract, whichever is the longer, or, if he is not entitled to such notice, that period of notice which is customary in the employment in question;

"the standard date" means the earlier of—

(*a*) the due date; and

(*b*) the last day of the period determined by—

(i) dividing the amount of the compensation by the maximum weekly amount which, on the day following the day of termination of employment, is specified in paragraph 5(4) of Schedule 3 to the Contracts of

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(**a**) 1965 c. 19 (N.I.); section 11(1) was amended by paragraph 13 of Schedule 5 to the Industrial Relations (Northern Ireland) Order 1976

(**b**) *See* paragraph 44 of Schedule 5 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15))

Employment and Redundancy Payments Act (Northern Ireland) 1965(**a**), and

(ii) treating the result (less any fraction of a whole number) as a number of weeks;

"week" means any period of 7 days (including a Sunday).".

*Insertion of regulation 7B in the principal regulations*

**5.** After regulation 7A of the principal regulations (days deemed to be days of entitlement to sickness benefit) there shall be inserted the following regulation—

"*Restrictions on availability for employment*

**7B.**—(1) Subject to paragraphs (2) to (5), a day shall not be treated as a day of unemployment in relation to a person if it falls within a week which includes one or more days in respect of which he imposes restrictions on the nature, hours, rate of remuneration, locality or other conditions of employment which he is prepared to accept.

(2) Paragraph (1) shall not apply if the person shows that he has a reasonable prospect of securing employment notwithstanding those restrictions.

(3) For the purposes of paragraph (2), in deciding whether a person has a reasonable prospect of securing employment regard shall be had, in particular, to the length of the period during which the person has been unemployed.

(4) Paragraph (1) shall not apply in relation to a day—

(*a*) where the restrictions would not prevent the person from having reasonable prospects of securing employment but for the existence of adverse industrial conditions, in the locality or localities concerned, which may reasonably be regarded as temporary;

(*b*) where the restrictions are reasonable in view of the person's physical or mental condition; or

(*c*) subject to paragraph (5), where the person who has imposed the restrictions has a usual occupation and those restrictions relate to it and are consistent with conditions which are usual in that occupation.

(5) Paragraph (4)(*c*) applies in relation to a person only for such period as may be determined in his case in accordance with paragraph (6); and any such period—

(*a*) shall begin on the first day for which he makes a claim for unemployment benefit since the last day on which he was in employment, or in vocational training in his usual occupation, or incapable of work; and

(*b*) shall end not more than 13 weeks after it begins.

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(**a**) Paragraph 5 of Schedule 3 was substituted by paragraph 39 of Schedule 5 to the Industrial Relations (Northern Ireland) Order 1976 and paragraph 5(4) was amended by the Schedule to S.R. 1989 No. 85

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

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

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

(*c*) the length of the periods during which the person 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.''.

*Insertion of regulations 12B to 12H in the principal regulations*

**6.** The following regulations shall be inserted after regulation 12A of the principal regulations (persons deemed available where a doubt has arisen about availability)—

''*Steps to be taken by persons actively seeking employment*

**12B.**—(1) Subject to the following paragraphs of this regulation, the steps which a person is required to take in any week if he is to be regarded as actively seeking employment in that week shall be such of the steps which are reasonable in his case as offer him his best prospects of receiving offers of employment.

(2) In determining for the purposes of this regulation whether in any week a person has taken the steps which are reasonable in his case regard shall be had to all the circumstances of the case, including, in particular—

(*a*) his skills, qualifications, abilities and physical or mental limitations;

(*b*) the time which has elapsed since he was last in employment and his work experience;

(*c*) the steps which he has taken in previous weeks to seek employment;

(*d*) the availability and location of vacancies in employment;

(*e*) any time during which he was—

(i) engaged in activities mentioned in regulation 9 (lifeboatmen and part-time firemen),

(ii) engaged, during an emergency, in the duties mentioned in regulation 10 (persons undertaking duties in an emergency),

(iii) undertaking voluntary work,

(iv) attending an Outward Bound course,

(v) participating in an employment or training programme for which a training allowance is not payable,

(vi) participating in any course of vocational training or study,

(vii) in the case of a blind person, participating in a course of training in the use of guide dogs;

(*f*) whether he has applied for, or accepted, a place on, or participated in a course or programme the cost of which is met in whole or in part out of central funds or by the European Economic Community and the purpose of which is to assist persons to select, train for, obtain and retain employment or self-employed earner's employment; and

(*g*) where he had no living accommodation in that week the fact that he had no such accommodation and the steps which he needed to take and has in fact taken to seek such accommodation.

(3) For the purposes of this regulation, the taking of one step on a single occasion during a week shall not be sufficient unless taking that step on that occasion is all that it is reasonable for the person in question to do in that week.

(4) For the purposes of this regulation, ''steps'' include—

(*a*) oral or written applications (or both) for employment made to persons—

(i) who have advertised the availability of employment, or

(ii) who appear to be in a position to offer employment;

(*b*) seeking information on the availability of employment from—

(i) advertisements,

(ii) persons who have placed advertisements which indicate the availability of employment,

(iii) employment agencies and employment businesses,

(iv) employers;

(*c*) registration with an employment agency or employment business;

(*d*) appointment of a third party to assist the person in question in finding employment.

(5) In this regulation—

''employment'' means employed earner's employment except in the expressions ''self-employed earner's employment'', ''employment agency'' and ''employment business'';

''employment agency'' and ''employment business'' mean an employment agency or (as the case may be) employment business, within the meaning of Article 11 of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981(**a**), in respect of which a person holds a current licence within the meaning of that Order.

*Meaning of week*

**12C.**—(1) For the purposes of section 17(1)(*a*)(i) (requirement to actively seek employment), ''week'', in the case of any person, means—

(*a*) except where sub-paragraph (*b*) of this paragraph applies, each of the successive periods which begin immediately after a relevant

(**a**) S.I. 1981/839 (N.I. 20)

day and end with the next relevant day in the period of interruption of employment in question;

(*b*) where the Department has directed the person to attend at a social security office on more than one day in any period of 7 days for the purpose of claiming unemployment benefit, each of the periods of 7 days (whether overlapping or not) which end with the last day to which each successive claim relates.

(2) Subject to paragraph (4), for the purposes of paragraph (1)(*a*)—

(*a*) the first relevant day in relation to a period of interruption of employment shall be the day immediately preceding the first day in that period for which the person in question claims unemployment benefit; and

(*b*) the last relevant day in relation to a period of interruption of employment shall be the last day of that period.

(3) Subject to paragraph (4), for the purposes of paragraph (1)(*a*)—

(*a*) if the Department has given written notice to the person in question to attend at a social security office on a particular weekday then, in each period of 7 days during the currency of the notice, that weekday shall be a relevant day in his case;

(*b*) if the Department has directed the person in question to attend at a social security office for the purpose of claiming unemployment benefit on a day which falls after the last day to which that claim relates, that last day shall be a relevant day in his case;

(*c*) in any case not falling within sub-paragraph (*a*) or (*b*) of this paragraph, in each period of 7 days the weekday which corresponds to the preceding relevant day shall be a relevant day in his case.

(4) Where, in the application of paragraph (2) or (3), 2 or more relevant days would fall within any period of 7 days during the period of interruption of employment, all but the later or latest of those days shall be disregarded.

(5) For the purposes of paragraphs (1)(*b*) and (3)(*b*), "directed" means directed by a direction to which regulation 8 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**a**) (attendance in person) refers; and for the purposes of paragraph (3)(*a*), "written notice" means any notice in writing to which paragraph 1 of Schedule 5 to those regulations (variation of prescribed times for claiming unemployment benefit) refers.

*Persons deemed to be actively seeking employment*

**12D.**—(1) A person shall be deemed to be actively seeking employment in respect of—

(*a*) the week which includes the first day for which a claim for unemployment benefit is made since that person was last—

(i) in employment, or

(**a**) S.R. 1987 No. 465

(ii) participating in an employment or training programme for which a training allowance is payable,

for a period of not less than 6 consecutive days (disregarding Sundays);

(*b*) the week which includes the last day of unemployment in any spell of unemployment;

(*c*) subject to paragraph (2), weeks in respect of which he has given written notice to the Department that—

(i) he does not intend to be actively seeking employment, but

(ii) he does intend to reside at a place other than his usual place of residence for at least one day;

(*d*) any week during which he is deemed available for employed earner's employment for not less than 3 days under either regulation 9 (lifeboatmen and part-time firemen) or regulation 10 (persons undertaking duties in an emergency);

(*e*) any week during which he is participating for not less than 3 days in an employment or training programme for which a training allowance is not payable unless that week falls immediately after a period of 5 consecutive weeks during which he has been participating in such a programme;

(*f*) any week in a single period not exceeding 8 weeks during which a person is taking active steps to establish himself in 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; and, where the scheme requires claimants to attend a meeting before they can apply to participate under it, the period shall begin with the week in which he attends such a meeting.

(2) In any period of 12 months a person shall be deemed to be actively seeking employment under paragraph (1)(*c*) only for the number of weeks specified in one of the following sub-paragraphs—

(*a*) a maximum of 2 weeks, whether consecutive or not;

(*b*) a maximum of 3 weeks, whether consecutive or not, during which he is attending for at least 3 days in each such week an Outward Bound course; or

(*c*) if he is a blind person, a maximum of 4 weeks, whether consecutive or not, during which he is participating for at least 3 days in each such week in a course of training in the use of guide dogs.

(3) In this regulation—

"spell of unemployment" means any period of one or more days on which a person is unemployed and any 2 or more such periods, not separated by a period of more than 3 consecutive days which in relation to that person are not days of unemployment, shall be treated as one spell of unemployment;

"week" shall have the same meaning as in regulation 12C.

*Matters to be taken into account in determining good cause*

**12E.**—(1) This regulation shall have effect for the purposes of section 20(1)(**a**) (disqualification for unemployment benefit).

(2) Subject to paragraphs (3) to (5), in determining whether a person does or does not have good cause for any act or omission for the purposes of section 20(1)(*b*) to (*g*) the matters which are to be taken into account shall include the following—

(*a*) any condition or personal circumstance of that person which indicates that a particular employment, official recommendation or course of training would be likely to or did—

(i) cause serious harm to his health, or

(ii) subject him to excessive physical or mental stress;

(*b*) any religious or conscientious objection, sincerely held by the person, to his undertaking a particular employment, or following a particular official recommendation or participating in a particular course of training;

(*c*) any responsibility for the care of another member of his household which would, or did, make it unreasonable for the person to undertake a particular employment, follow a particular official recommendation or participate in a particular course of training;

(*d*) the time it took, or would normally take, for the person to travel from his home to the place of the employment or training and back to his home by a route and means appropriate to his circumstances and to the employment or training;

(*e*) the expenses which were, or would be, necessarily and exclusively, incurred by the person for the purposes of the employment or training, together with any expenses of travelling to and from the place of the employment or training by a route and means appropriate to his circumstances, if those expenses did, or would, represent an unreasonably high proportion of—

(i) in the case of employment, the remuneration which it is reasonable to expect that he would derive from that employment, or

(ii) in the case of training, the income which he received, or would receive, from participation in that training.

(3) For the purposes of paragraph (2)(*e*), in considering whether expenses did, or would, represent an unreasonably high proportion of remuneration or income, the principle shall apply that the greater the level of remuneration or income the higher the proportion thereof which it is reasonable should be represented by expenses.

(4) Subject to paragraphs (5) and (6), a person is not to be regarded as having good cause for any act or omission for the purposes of section 20(1)(*b*) to (*g*) if, and to the extent that, the reason for that act or omission relates to—

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(a) Section 20(1) was amended by Article 44(2)(*a*) of the Social Security (Northern Ireland) Order 1986, Article 2 of S.R. 1988 No. 83, Articles 5(2) and 6(*a*) of the Employment and Training (Amendment) (Northern Ireland) Order 1988 and Article 14(1) of the Social Security (Northern Ireland) Order 1989

(*a*) his income or outgoings or the income or outgoings of any other member of his household, or the income or outgoings which he or any other member of his household would have if he were to become employed or to participate in training, or did have whilst participating in training but for the purposes of this sub-paragraph a person's outgoings shall not include any expenses taken into account under paragraph (2)(*e*);

(*b*) the time it took, or would normally take, for the person to travel from his home to the place of the employment, or the place of the training, and back to his home where that time was or is normally less than one hour either way by a route and means appropriate to his circumstances and to the employment, or training, unless, in view of the health of the person or any responsibility for the care of another member of his household, that time was or is unreasonable.

(5) Where a person has undergone training for a particular kind of employment for a period of not less than 2 months, for the purposes of section 20(1)(*b*) to (*d*), a person is to be regarded as having good cause for a period of 4 weeks following the last day of the week in which the training ends for—

(*a*) refusing or failing to apply for, or refusing to accept, employment of any other kind when offered to him;

(*b*) neglecting to avail himself of a reasonable opportunity of employment of any other kind;

(*c*) refusing or failing to carry out an official recommendation given to him with a view to assisting him to find employment of any other kind.

(6) Where a person has been notified by an agency, or by or on behalf of an employer, of a situation in any employment which is or is about to become vacant, that person shall be regarded—

(*a*) for the purposes of section 20(1)(*b*), as having good cause for refusing or failing to apply for, or for refusing to accept, that situation; and

(*b*) accordingly, for the purposes of section 20(1)(*c*), as having good cause for neglecting to avail himself of an opportunity of employment,

unless one of the conditions specified in paragraph (7) is satisfied.

(7) The conditions referred to in paragraph (6) are—

(*a*) that the situation has also been notified to the person in question by the Department of Economic Development;

(*b*) that the situation is a qualifying former employment of that person.

(8) For the purposes of paragraph (7)(*b*), a situation is a qualifying former employment of any person if—

(*a*) it is a situation offered by an employer for whom he has previously worked or by an employer who has succeeded that employer;

(*b*) he has a right to return to work for the former employer (or any successor of his);

(*c*) not more than one year has elapsed between—

(i) the date when he last worked for that employer, and

(ii) the date when the question under section 20(1)(*b*) or (*c*) arises; and

(*d*) the terms and conditions of employment in the situation are not less favourable than those in the situation which he held when he last worked for that employer.

(9) In this regulation—

(*a*) "agency" means any agency referred to in the definition of "properly notified" in section 20(5)(*a*)(**a**), other than the Department of Economic Development(**b**);

(*b*) except in paragraph (5), "training" means training under an approved training scheme.

*Permitted period*

**12F.**—(1) For the purposes of section 20A(3)(**c**) (exemptions from disqualification for unemployment benefit), the permitted period shall not be less than a period of 7 days (including a Sunday) and any such period—

(*a*) shall begin on the first day for which a person makes a claim for unemployment benefit since the last day on which he was in employment, or in vocational training in his usual occupation, or incapable of work; and

(*b*) shall end not more than 13 weeks after it begins.

(2) In determining the permitted period in any case, regard shall be had to—

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

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

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

(*d*) the consideration that the more skilled the usual occupation and the greater the extent to which the skills in that occupation have been exercised recently, the longer the permitted period;

(*e*) the availability and location of employment in his usual occupation;

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(**a**) Section 20(5)(*a*) was amended by Article 5(3)(*a*) of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

(**b**) Formerly the Department of Manpower Services. *See* S.I. 1982/846 (N.I. 11), Article 3

(**c**) Section 20A was inserted by Article 14(4) of the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13))

(*f*) any determination made under regulation 7B(**a**) (restrictions on availability for employment).

*Trial periods*

**12G.**—(1) A person shall be of a prescribed description for the purposes of subsection (2) of section 20A (exemptions from disqualification for unemployment benefit) and shall not be disqualified under the provisions mentioned in that subsection if he has not worked in employed earner's employment, has not been a self-employed earner or has not been in full-time education, during the period of 26 weeks preceding the day of the commencement of the employment.

(2) For the purposes of the definition of ''trial period'' in section 20A(3)—

(*a*) the day on which the person's employment is to be regarded as commencing shall be the Sunday of the week in which the person enters the employment;

(*b*) in determining the time at which the sixth or twelfth week of a trial period ends any week in which a person has not worked in the employment for at least 16 hours shall be disregarded.

*Meaning of employment*

**12H.** For the purposes of section 20(1)(*b*) and (*c*), ''employment'' means employment in which a person is employed for 24 hours or more per week.''.

*Amendment of regulation 16 of the principal regulations*

**7.** In regulation 16 of the principal regulations (special provisions relating to delay or failure in making or prosecuting a claim) for the words from ''but subject to section 79(4)'' to the end there shall be substituted ''be treated as having been entitled to benefit for that day except where he satisfies the adjudication officer that he did not intend, by that delay or failure, to avoid the necessity of requalifying for benefit''.

*Amendment of regulation 23 of the principal regulations*

**8.** In regulation 23 of the principal regulations (interpretation) in the definition of ''pension payments'' for ''occupational pension'' there shall be substituted ''occupational or personal pension''.

*Amendment of regulation 25 of the principal regulations*

**9.** In regulation 25 of the principal regulations (disregard of pension payments on account of redundancy)—

(*a*) in paragraph (1)(*b*) after ''occupational pension scheme'' there shall be inserted ''or personal pension scheme'';

(*b*) after paragraph (2) there shall be added the following paragraph—

''(3) In this regulation ''personal pension scheme'' means any personal pension scheme within the meaning of paragraph (*c*) or (*e*) of the

(**a**) Inserted by regulation 5 of these regulations

definition of "payments by way of occupational or personal pension" in Article 5(3) of the Order(**a**) and any contract or trust, other than an occupational pension scheme, which falls within paragraph (*d*) of that definition.".

*Revocation*

**10.** Regulation 21 of the principal regulations (additional condition with respect to the receipt of unemployment benefit by seasonal workers) is hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 8th September 1989.

(L.S.) *A. N. Burns*
Assistant Secretary

(**a**) Article 5(3) was amended by Article 11(2) of the Social Security (Northern Ireland) Order 1989

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations further amend the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1984 (''the principal regulations''). They correspond to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30), are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

Apart from regulations 7 and 10, these regulations are made wholly or partly in consequence of amendments to the Social Security (Northern Ireland) Act 1975 and the Social Security (No. 2) (Northern Ireland) Order 1980 which are made by the Social Security (Northern Ireland) Order 1989.

Articles 11, 12, 13 and 14 of the Social Security (Northern Ireland) Order 1989, which inserted or amended some of the enabling provisions under which these regulations are made, came into operation on 28th August 1989, for the purpose of making regulations, and on 9th October 1989, for all other purposes, by virtue of Article 2(*b*) and (*e*) of, and Part I of the Schedule to, the Social Security (1989 Order) (Commencement No. 1) Order (Northern Ireland) 1989 (S.R. 1989 No. 353 (C. 14)).

Regulation 2 inserts into regulation 1(2) of the principal regulations definitions of ''employment or training programme'', ''Outward Bound course'' and ''training allowance''.

Regulation 3 inserts regulation 6A into the principal regulations to extend in prescribed cases the period during which a person may requalify for unemployment benefit.

Regulation 4 amends regulation 7 of the principal regulations to make provision for days not to be treated as days of unemployment where a compensation payment is received on the termination of employment.

Regulation 5 inserts regulation 7B into the principal regulations to make new provision for days not to be treated as days of unemployment where a person places certain restrictions on his availability.

Regulation 6 inserts regulations 12B to 12H into the principal regulations

- to prescribe the steps to be taken by persons who are actively seeking employment (regulation 12B);
- to make provision for persons to be deemed to be actively seeking employment (regulation 12D);
- to make provision in relation to good cause for acts or omissions in relation to disqualification for unemployment benefit (regulation 12E);

— to specify the maximum and minimum permitted periods (regulation 12F);

— to make provision for trial periods (regulation 12G);

— to make provision for the meaning of ''week'' (regulation 12C) and for the meaning of ''employment'' (regulation 12H).

Regulation 7 amends regulation 16 of the principal regulations so that any day in respect of which a person establishes that he did not omit to claim unemployment benefit with a view to avoiding the need to requalify for that benefit is not treated as a day of entitlement to benefit.

Regulations 8 and 9 respectively amend regulations 23 and 25 of the principal regulations to amend the provisions under which unemployment benefit is abated, to take account of personal pensions.

Regulation 10 revokes the additional condition for seasonal workers.