

1979 No. 211

SOCIAL SECURITY

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

Made 20th June 1979

Coming into operation 20th 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

reports to such an office at the specified place for such an interview, or before a day on which the Department rescinds the said notice (whichever event first occurs), shall not be treated as a day of unemployment unless, throughout the period beginning with the specified day and ending, as the case may be, with the day on which that person so reports or with the day on which the Department rescinds the said notice, that person shows good cause for his failure to report;

(k) where a person—

(i) has failed to comply with a written notice given or sent to him by the Department requesting him to report to an officer of the Department at a time and place and on a day specified in the notice in order that he may make a written declaration in connection with the satisfaction by him of the conditions for receipt of unemployment benefit; and

(ii) within 14 days of the date on which that person failed to comply with the requirements of the said notice the Department gives or sends him a further notice directing him to report to an officer of the Department at a time and place and on a day specified in the further notice in order that he may make such a written declaration; and

(iii) that person fails to comply with the requirements of the said further notice;

then the day specified in the said further notice and any subsequent day falling before a day on which that person reports to an officer of the Department at a place specified in the further notice in order to make such a written declaration or before the Department rescinds the further notice (whichever event first occurs) shall not be treated as a day of unemployment unless, throughout the period beginning with the day specified in the further notice and ending, as the case may be, with the day on which that person so reports or with the day on which the Department rescinds the further notice, he shows good cause for his failure to report;

(l) a day shall not be treated as a day of unemployment in relation to any person if it is a day in respect of which there is payable to that person—

(i) an amount specified by an industrial tribunal, on making an order under Article 31 or 39 of the Industrial Relations (Northern Ireland) Order 1976(d) for reinstatement or re-engagement, as payable to that person or an amount awarded to that person under Article 32 or 41 of that Order as compensation for unfair dismissal or for non-compliance with an order under Article 39(7), (8) or (9) of that Order, where either of those amounts includes a sum representing remuneration which the industrial tribunal considers he might reasonably be expected to have had for that day but for the dismissal, so however that this provision 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; or

(ii) an amount specified by an industrial tribunal, on making an order under Article 39 or 41 of the Industrial Relations (Northern Ireland) Order 1976 for interim relief pending determination of a claim for unfair dismissal, as payable to that person by way of pay in respect of a pay period which includes that day; or

- (iii) remuneration under a protective award made under Article 51 of the Industrial Relations (Northern Ireland) Order 1976 or an amount ordered to be paid under Article 53 of that Order; or
 - (iv) remuneration under Article 9 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976(e) while he is suspended from work on medical grounds; or
 - (v) a guarantee payment under Article 3 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976 or guaranteed remuneration under a collective agreement or a wages order having regard to which the appropriate Department has made an exemption order under Article 8 of that Order, or guaranteed remuneration under a collective agreement or a wages order referred to in the said Article 8 where that person has an obligation in connection with such agreement or order to place his services at the disposal of an employer on that day;
 - (m) a day shall not be treated as a day of unemployment if it is a day in respect of which a person whose employment as such has not been terminated receives a payment by virtue of any scheme for making payments to employers set up by the Department of Manpower Services under section 1(2) of the Employment Subsidies Act 1978(f) (schemes for financing employment).
- (2) Paragraph (1)(e) shall not apply to a person unless—
- (a) there is a recognised or customary working week in connection with his employment; or
 - (b) he regularly works for the same number of days in a week for the same employer or group of employers.

Days to be treated as days of incapacity for work for the purposes of invalidity allowance

7.—(1) For the purpose only of ascertaining days of incapacity for work for the purposes of section 16(1) (which relates to invalidity allowance) the days specified in paragraph (2) shall be treated as days of incapacity for work if they are days in respect of which the person concerned would have had a right to sickness or invalidity benefit—

- (a) if he had claimed it; and
- (b) in a case to which regulation 2 of the Social Security (Benefit) (Members of the Forces) Regulations 1975(g) applies, if that regulation did not apply; and
- (c) in a case to which paragraph (2)(d) applies and in which the widow had not satisfied the contribution conditions set out in paragraph 1 of Schedule 3, if she had satisfied them.

(2) The said days are—

- (a) in the case of a person who was a serving member of the forces as defined in regulation 1(2) of the Social Security (Contributions) Regulations 1979(h), days when he was serving as such a member except days on which he was serving or undergoing training or instruction, in any of the forces mentioned in Part I of Schedule 3 to those regulations except the regular naval, military or air forces of the Crown, for a continuous period not exceeding 72 consecutive hours; or

(e) S.I. 1976/2147 (N.I. 28)

(f) 1978 c. 6

(g) S.I. 1975/493 (1975 I, p. 1629) as amended by regulation 15 of S.I. 1975/1058 (1975 II, p. 3691)

(h) S.I. 1979/591

- (b) a member of the Ulster Defence Regiment who is neither—
- (i) serving also as a member of any of the regular naval, military or air forces of the Crown, nor
 - (ii) on the full-time permanent staff of that regiment, nor
 - (iii) serving or undergoing training or instruction in that regiment for a continuous period exceeding 72 consecutive hours;
- (c) in the case of a person who entered into an undertaking with his employer to refrain from claiming sickness, invalidity or injury benefit or a maternity allowance in consideration of his drawing unabated sick pay, days in respect of which such an undertaking is in force, so however that this sub-paragraph shall apply only where the undertaking is approved for the purposes of this regulation by the Department in its discretion;
- (d) in the case of a widow who was entitled to a widow's allowance, days during the period between the date of her husband's death and the date on which she ceased to be so entitled;
- (e) in the case of a widow entitled to a widow's pension or a widowed mother's allowance, days before 23rd September 1972, being days in respect of which she was so entitled at the rate specified in relation to that pension or allowance, as the case may be, in Schedule 3 to the National Insurance Act (Northern Ireland) 1966(i) and having effect in respect of the day in question.

Persons deemed to be available for employment in employed earner's employment

8. A person engaged in—

- (a) the manning or launching of a lifeboat; or
- (b) the performance of duty as a part-time fireman in a fire brigade maintained in pursuance of the Fire Services Act (Northern Ireland) 1969(j),

shall be deemed to be available to be employed in employed earner's employment, and the provisions of regulation 6(1)(h) shall not apply to him.

Reckoning of periods of interruption of employment

9. For the purpose of reckoning periods of interruption of employment, but for that purpose only, a person shall be deemed to be available to be employed in employed earner's employment on any such day as is referred to in regulation 6(1)(f) and any such day shall be treated as a day of unemployment.

Special provisions relating to delay or failure in making or prosecuting a claim

10.—(1) Notwithstanding anything contained in regulation 6(1), a person who, in respect of any period of interruption of employment, would have been entitled to unemployment benefit for any day but for any delay or failure to make or prosecute a claim shall, for the purposes of section 18 (duration of unemployment benefit), but subject to section 79(4), be treated as having been entitled to benefit for that day.

(i) 1966 c. 6 (N.I.)
 (j) 1969 c. 13 (N.I.)

(2) For the purposes of section 14(7) (period of entitlement to earnings-related supplement), a person shall be treated as having been entitled to unemployment, sickness or invalidity benefit for any day if he would have been so entitled but for any delay or failure to make or prosecute a claim, so however that he shall not be so treated where he shows that he did not intend, by failure to acquire or establish a right to benefit for that day, to cause a new period of interruption of employment to begin for the purposes of earnings-related supplement.

Disqualification for sickness or invalidity benefit

11.—(1) A person shall be disqualified for receiving sickness or invalidity benefit for such period not exceeding 6 weeks as may be determined in accordance with sections 97 to 104 if—

- (a) he has become incapable of work through his own misconduct, except that this disqualification shall not apply where the incapacity is due to venereal disease or, in the case of a woman who is not a wife, or being a wife, is separated from her husband, to pregnancy; or
- (b) he fails without good cause to comply with a notice in writing given by or on behalf of the Department requiring him to attend for and to submit himself to medical or other examination on a date not earlier than the third day after the day on which the notice was sent and at a time and place specified in that notice; or
- (c) he fails without good cause to attend for, or to submit himself to, medical or other treatment; provided that this disqualification shall not apply to any failure to attend for or to submit to vaccination or inoculation of any kind or to a surgical operation, unless the failure is a failure to attend for or to submit to a surgical operation of a minor character, and is unreasonable; or
- (d) he fails without good cause to observe any of the following rules of behaviour, namely:
 - (i) to refrain from behaviour calculated to retard his recovery, and to answer any reasonable enquiries (not being enquiries relating to medical examination, treatment or advice) by the Department or its officers directed to ascertaining whether he is doing so;
 - (ii) not to be absent from his place of residence without leaving word where he may be found;
 - (iii) to do no work for which remuneration is, or would ordinarily be, payable unless it is work which is described in regulation 6(1)(g).

(2) In computing the period of notice required to be given by paragraph (1)(b) Sunday shall not be disregarded.

Partial satisfaction of contribution conditions and reduced rates of benefit

12.—(1) Where a person would be entitled to unemployment or sickness benefit but for the fact that the second contribution condition set out in paragraph 1 of Schedule 3 is not satisfied, he shall, if a rate is prescribed for him in paragraph (2), be entitled to such benefit at that rate.

(2) The weekly rate of unemployment or sickness benefit shall be calculated as a percentage of the rate set out in Part I of Schedule 4; in a case where the second contribution condition would have been satisfied if the multiplier in that condition (instead of being 50) had been $37\frac{1}{2}$, that percentage shall be 75 per cent, and in a case where that condition would have been satisfied if the multiplier had been 25, it shall be 50 per cent.

Modifications of normal idle day rule

13.—(1) This regulation shall apply for the purposes of section 17(1)(b) (normal idle day rule).

(2) Where a person is employed in an employed earner's employment which has not been terminated but has been indefinitely suspended, that employment shall be treated as if it had been terminated on the date on which it was suspended if the period of the suspension consists of not less than 6 consecutive days in a continuous period of days on which the suspension has lasted, ascertained in accordance with section 17(1)(b) as substituted by section 17(3)(a).

(3) Where in any week a person is employed in an employed earner's employment which has not been terminated, if—

- (a) in relation to that person, that employment is casual employment; or
- (b) in the normal course, that person would not work for the employer by whom he is employed in that employment; or
- (c) it has been treated as having been terminated for the purpose of section 17(1)(b) as substituted by section 17(3)(a); or
- (d) account falls to be taken, in determining the person's normal course of work, of any period of short-time working due to adverse industrial conditions,

that employment shall be treated, as respects that week, as if it had been terminated immediately after its commencement.

(4) If, as respects any day, a person satisfies the following conditions, that is to say—

- (a) in the normal course, he would work on that day in an employed earner's employment which has not been, and does not fall to be treated as if it had been, terminated but has been suspended; and
- (b) on that day, he works either—
 - (i) in some other employed earner's employment which, by virtue of paragraph (3)(a), (b) or (c), falls to be treated, as respects the week in which that day occurs, as if it had been terminated; or
 - (ii) in an employment which, if it were an employed earner's employment, would be such an employment as is described in head (i) of this sub-paragraph;

that day shall be treated as a day of interruption of employment if, but for his having so worked on that day, it would have been so treated.

(5) A day shall not be treated as a day of unemployment if—

- (a) were no account taken, in determining a person's normal course of work, of any period of short-time working due to adverse industrial conditions, it would have been treated as not being a day of unemployment by virtue of section 17(1)(b); but
- (b) it is excluded from the operation of that section by the provisions of paragraph (3)(d) of this regulation.

(6) The employment of a person shall be treated as if it had been terminated immediately after its commencement, unless—

- (a) there is a recognised or customary working week in connection with his employment; or
- (b) he regularly works for the same number of days in a week for the same employer or group of employers.

Calculation of period of interruption of employment under section 17(1)(d) for purposes of earnings-related supplement

14. In reckoning periods of interruption of employment for the purposes of earnings-related supplement under section 14(7), but not for the purpose of calculating whether a day is a day of unemployment or incapacity for work which is not earlier than the 13th day of a period of interruption of employment, a day which is not treated in relation to any person as a day of interruption of employment by reason only of section 17(1)(b) as substituted by section 17(3)(a) shall be treated as a day of interruption of employment.

Special provision for certain persons who have been employed abroad

15.—(1) The following provisions of this regulation shall apply for the purposes of unemployment benefit and sickness benefit (but not for the purposes of earnings-related supplement of either of those benefits) where a person—

- (a) has been absent from Northern Ireland;
- (b) has returned to Northern Ireland; and
- (c) throughout the whole period of his absence was ordinarily resident in Northern Ireland,

and in this regulation “a person” shall mean such a person.

(2) Where a person has paid Class 1 contributions at the standard rate under the Act either—

- (a) to the full extent of his liability under regulation 112 of the Social Security (Contributions) Regulations (Northern Ireland) 1979(k); or
- (b) in respect of the first 52 weeks of his employment abroad by virtue of either—
 - (i) an Order in Council made under section 134 (reciprocity with countries outside the United Kingdom) or an order made by the Secretary of State under that section, or
 - (ii) Council Regulation No. 1408/71/EEC(l) (application of social security schemes to employed persons and their families moving within the Community),

and the employment by reference to which his liability mentioned in subparagraph (a) or (b), as the case may be, arose continued throughout the first 52 weeks after the commencement of that liability, he shall be treated as having paid Class 1 contributions on earnings at the lower earnings limit for the relevant tax year for any weeks between the end of that liability and the date of his return to Northern Ireland which are relevant to his claim.

(3) Where—

- (a) a person would have been liable to pay Class 1 contributions at the standard rate under the said regulation 112 but for the provisions of an Order in Council made under section 134 or an order made under that section;
- (b) in relation to his case that Order in Council or order does not provide for periods of insurance, employment or residence in the other country to which that Order in Council or order relates to be taken into account in determining title to benefit; and
- (c) the employment by reference to which he would have been liable under the said regulation 112 continued throughout the first 52 weeks,

(k) S.R. 1979 No. 186

(l) O.J. No. L149, 5.7.71, p. 2 (O.J. S.E. 1971 (II) p. 416)

he shall be treated as having paid Class 1 contributions on earnings at the lower earnings limit for the relevant tax year for each week of his absence.

(4) Where—

- (a) a person would have been liable to pay Class 1 contributions at the standard rate under the said regulation 112 but for the provisions of an Order in Council made under section 134 or an order made under that section or Council Regulation No. 1408/71/EEC;
- (b) the employment by reference to which he would have been liable under the said regulation 112 continued throughout the first 52 weeks from the time that that liability would have commenced; and
- (c) that Order in Council, order or Council Regulation, as the case may be, provides for aggregation of periods of insurance, employment or residence only if an insurance period has been completed since his return to Northern Ireland, and an insurance period has not been so completed,

any period of insurance, employment or, as the case may be, residence in the other country to which that Order in Council, order or Council Regulation, as the case may be, relates which falls in the relevant tax year and which could be taken into account in determining entitlement to benefit if an insurance period had been completed since his return to Northern Ireland shall be treated as a period in respect of which Class 1 contributions on earnings at the lower earnings limit for that tax year had been paid.

(5) Paragraphs (2) (except in a case to which paragraph (2)(a) applies), (3) and (4) shall not apply in relation to benefit to which this regulation applies for any day in respect of which the person concerned is entitled to a corresponding benefit under the social security scheme of the country in which he was employed.

(6) Where a person satisfies the requirements of paragraph (3)(a) or (4)(a) but the relevant employment did not continue for 52 weeks, he shall be treated as having paid Class 1 contributions on earnings at the lower earnings limit for the relevant tax year for each week for which it did continue.

(7) Where a person to whom regulation 3 of the National Insurance (Residence and Persons Abroad) Regulations (Northern Ireland) 1973(m) applied—

- (a) has paid contributions to the full extent of his liability under that regulation; and
- (b) has paid or has had credited to him 45 contributions of any Class under the National Insurance Act (Northern Ireland) 1966 during each contribution year from the year in which his liability ceased until the last contribution year relevant to him which ended before 5th April 1975 (inclusive of both these years),

paragraph (2) shall apply to him, notwithstanding paragraph (2)(a), as if the reference to his liability were a reference to his liability under the said regulation 3.

(8) Paragraph (2) shall not apply to any case where the employment which gave rise to the liability mentioned in sub-paragraph (a) of that paragraph commenced before 6th April 1975 unless the person concerned paid contributions under the said Act of 1966 to the full extent of his liability under the said regulation 3.

*Additional conditions with respect to the receipt of unemployment benefit***16.—(1)** In this regulation—

“employment” means employment as an employed earner and includes employment as a share-fisherman; and “employed” shall be construed accordingly;

“off-season” means, in relation to a seasonal worker, that period of the year (or, if more than one period, the aggregate of those periods) during which he is normally not employed, and for this purpose the expression “period” shall not include any period of less than 7 consecutive days;

“seasonal worker” means a person whose normal employment is for a part or parts only of a year in an occupation or occupations of which the availability or extent varies at approximately the same time or times in successive years; or any other person who normally restricts his employment to the same, or substantially the same, part or parts only of the year; and for the purpose of this definition the following provisions shall apply:

- (i) the expression “part or parts only of a year” shall include any period of time (or, if more than one period, the aggregate of those periods whether in the same or different occupations) whatever the duration of that period; but where any period or periods of a year during which a person is normally not employed is not, or if more than one period (whatever the duration of any such period) do not amount in the aggregate to, more than 7 weeks, that person shall not be treated as a seasonal worker;
- (ii) in construing the expression “normal employment”, regard shall be paid to factors inherent in the nature or conditions of the occupation or occupations in which that person is engaged, and not to factors abnormal to that occupation or occupations notwithstanding that those factors persist for a prolonged period;

“share-fisherman” means any person who—

- (a) is ordinarily employed in the fishing industry otherwise than under a contract of service, as master or a member of the crew of any British fishing boat within the meaning of section 373 of the Merchant Shipping Act 1894⁽ⁿ⁾, being a fishing boat manned by more than one person, and remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of the fishing boat; or
- (b) has ordinarily been so employed, but who by reason of age or infirmity permanently ceases to be so employed and becomes ordinarily engaged in employment ashore in Northern Ireland otherwise than under a contract of service making or mending any gear appurtenant to a British fishing boat or performing other services ancillary to or in connection with that boat and is remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of that boat and has not ceased to be ordinarily engaged in such employment;

“a substantial amount of employment” means employment which is equal in duration to not less than one-fourth (or such other fractional part as may, in the circumstances of any particular case, be reasonable) of the current off-season;

“year” (where used in this paragraph) means the period of 12 months commencing with the first day in the calendar year on which the person concerned begins a period of normal employment.

(2) The following shall be additional conditions with respect to the receipt of unemployment benefit by a seasonal worker in respect of any day during his off-season:

(a) that he has registered for employment with the Department of Manpower Services throughout the period of 2 years immediately preceding that day, or, if he became a seasonal worker after the commencement of that period, from the day on which he became a seasonal worker until that day, other than (in either case) during any of the following periods, namely—

(i) any period during which he was employed or was incapable of work;

(ii) any inconsiderable period;

(iii) any temporary period throughout which he was not available to be employed by reason only of domestic necessity or compulsion of law, or by reason of any other circumstances of an exceptional character;

and

(b) that either—

(i) in his current off-season he has had a substantial amount of employment before that day; or

(ii) (having regard to all the circumstances of his case, including the nature and extent of his employment (if any) in any past off-seasons and the industrial or other relevant conditions normally obtaining in the district or districts in which he is available to be employed) he can or could reasonably expect to obtain, after that day in his current off-season, employment which, together with his employment (if any) before that day in that off-season, constitutes a substantial amount of employment.

Revocations

17. The regulations specified in column (1) of the Schedule to these regulations are hereby revoked to the extent mentioned in column (3) of that Schedule.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 20th June 1979.

(L.S.)

W. J. Sloane

Senior Assistant Secretary

SCHEDULE

Regulation 17

Revocations

<i>Regulations revoked</i> (1)	<i>Reference</i> (2)	<i>Extent of revocation</i> (3)
The Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1975	S.R. 1975 No. 86 (I, p. 504)	The whole of the regulations
The Social Security (Unemployment, Sickness and Invalidity Benefit) Amendment Regulations (Northern Ireland) 1976	S.R. 1976 No. 247 (II, p. 1173)	The whole of the regulations
The Social Security (Unemployment, Sickness and Invalidity Benefit) (Amendment) Regulations (Northern Ireland) 1977	S.R. 1977 No. 25 (I, p. 77)	The whole of the regulations
The Social Security (Unemployment, Sickness and Invalidity Benefit) (Amendment) Regulations (Northern Ireland) 1978	S.R. 1978 No. 87 (I, p. 229)	The whole of the regulations
The Social Security (Unemployment, Sickness and Invalidity Benefit) (Amendment No. 2) Regula- tions (Northern Ireland) 1978	S.R. 1978 No. 120 (I, p. 363)	The whole of the regulations

EXPLANATORY NOTE

(This note is not part of the regulations but is intended to indicate their general purport.)

These regulations are made for the purpose only of consolidating the regulations hereby revoked.

The regulations contain provisions relating to unemployment benefit, sickness benefit and invalidity benefit under the Social Security (Northern Ireland) Act 1975.

The regulations contain various provisions relating to payment of the above benefits. The principal matters dealt with are the provisions relating to persons deemed to be incapable of work; special provisions relating to a day substituted for Sunday; the position of nightworkers; suspension of employment; days which are or are not to be treated as days of unemployment or incapacity for work; days which are treated as days of incapacity for work for the purposes of invalidity allowance; the position of lifeboat men and part-time firemen; reckoning of periods of interruption of employment; provisions relating to delay or failure in claiming benefit; disqualification for sickness benefit or invalidity benefit; partial satisfaction of contribution conditions and reduced rates of benefit; miscellaneous provisions relating to modification of normal idle day rule and earnings-related supplement.

The regulations include special provisions for persons who have paid Class 1 contributions whilst abroad and transitional provisions relating to the receipt of unemployment benefit by seasonal workers in their off-season. Regulation 17 and the Schedule provide for revocations.

Any amendments are of a minor or consequential nature.