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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 199**

**SOCIAL SECURITY**

**The Income Support (General) (Jobseeker's Allowance Consequential Amendments) Regulations (Northern Ireland) 1996**

*Made - - - - 15th May 1996  
Coming into operation in accordance with  
regulation 1(1) and (2)*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by Article 39 of the Jobseekers (Northern Ireland) Order 1995(1) and sections 122(1)(a) and 123(1)(e) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(2) and of all other powers enabling it in that behalf, by this statutory rule, which contains only regulations made by virtue of, or consequential upon, Article 39(1) of that Order and section 123(1)(e) of that Act, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Income Support (General) (Jobseeker's Allowance Consequential Amendments) Regulations (Northern Ireland) 1996 and shall come into operation on 7th October 1996.

(2) Regulations 2 to 32 of these Regulations shall have effect in relation to any particular claimant at the beginning of the first benefit week to commence for that claimant on or after 7th October 1996 which applies in his case and for this purpose and in regulation 27 the expressions "benefit week" and "claimant" have the same meanings as in regulation 2(1) of the principal Regulations (interpretation).

(3) In these Regulations "the principal Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(3).

(4) The Interpretation Act (Northern Ireland) 1954(4) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

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(1) S.I. 1995/2705 (N.I. 15)

(2) 1992 c. 7; section 123(1)(e) was added by paragraph 13(5) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995

(3) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 Nos. 146, 274 and 318, S.R. 1989 Nos. 139, 249 and 395, S.R. 1990 Nos. 131 and 213, S.R. 1991 No. 338, S.R. 1992 Nos. 6 and 147, S.R. 1993 Nos. 149 and 373 and S.R. 1995 Nos. 67, 71, 301, 367 and 434

(4) 1954 c. 33 (N.I.)

### **Amendment of regulation 2 of the principal Regulations**

2. In regulation 2 of the principal Regulations (interpretation)—
- (a) after the definition of “the Contributions and Benefits Act” there shall be inserted the following definition—
    - ““the Jobseekers Order” means the Jobseekers (Northern Ireland) Order 1995;”,
    - and
  - (b) the definition of “registered person” shall be omitted.

### **Amendment of regulation 3A of the principal Regulations**

3. In regulation 3A of the principal Regulations(5) (permitted period)—
- (a) in paragraph (1)(a) “subject to paragraph (2),” shall be omitted, and
  - (b) paragraphs (2) and (3) shall be omitted.

### **Insertion of regulation 4ZA in the principal Regulations**

4. In Part II of the principal Regulations (conditions of entitlement) there shall be inserted at the beginning the following regulation—

#### **“Prescribed categories of person**

**4ZA.**—(1) Subject to paragraphs (2) and (3), a person to whom any paragraph of Schedule 1B applies falls within a prescribed category of person for the purposes of section 123(1)(e) of the Contributions and Benefits Act (entitlement to income support).

(2) Paragraph (1) does not apply to a student during the period of study.

(3) A student during the period of study falls within a prescribed category of person for the purposes of section 123(1)(e) of the Contributions and Benefits Act only if—

- (a) regulation 70(3)(a) applies to him;
- (b) paragraph 1, 2, 10, 11, 12 or 18 of Schedule 1B applies to him; or
- (c) any other paragraph of Schedule 1B applies to him and he has a partner who is also a student, and either he or his partner is treated as responsible for a child or young person, but this provision shall apply only for the period of the summer vacation appropriate to his course.”.

### **Amendment of regulation 4 of the principal Regulations**

5. In regulation 4(2)(c) of the principal Regulations (temporary absence from Northern Ireland) —
- (a) for heads (i) and (ii) there shall be substituted the following heads—
    - “(i) the claimant falls within one or more of the prescribed categories of person listed in Schedule 1B other than paragraphs 7, 15, 20, 21, 24, 25, 26 or 27 of that Schedule,
    - (ii) the claimant falls within paragraph 7 of Schedule 1B (persons incapable of work) and his absence from Northern Ireland is for the sole purpose of receiving treatment from an appropriately qualified person for the incapacity by reason of which he satisfies the conditions of that paragraph, or”.

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(5) Regulation 3A was inserted by S.R. 1989 No. 395

- (b) in head (v)(6) for “paragraph 5 of Schedule 1” there shall be substituted “paragraph 7 of Schedule 1B”.

#### **Amendment of regulation 6 of the principal Regulations**

6. In regulation 6 of the principal Regulations (persons not treated as engaged in remunerative work) for paragraph (f)(7) there shall be substituted the following paragraph—

- “(f) he is a person to whom paragraph 4 of Schedule 1B applies;”.

#### **Amendment of regulation 13 of the principal Regulations**

7. In regulation 13(2) of the principal Regulations (circumstances in which persons in relevant education are to be entitled to income support)—

- (a) sub-paragraphs (f) and (g) shall be omitted, and  
(b) for sub-paragraph (h) there shall be substituted the following sub-paragraph—  
“(h) is a person to whom paragraph 18 of Schedule 1B (refugees) applies.”.

#### **Amendment of regulation 16 of the principal Regulations**

8. In regulation 16 of the principal Regulations(8) (circumstances in which a person is to be treated as being or not being a member of the household)—

- (a) in paragraph (5)(a)(i), (aa)(i) and (b)(i) there shall be added at the beginning “subject to paragraph (5A),”;  
(b) after paragraph (5) there shall be inserted the following paragraph—  
“(5A) Paragraph (5)(a)(i), (aa)(i) and (b)(i) shall not apply in a case where immediately before the date of claim for income support the claimant was entitled to an income-based jobseeker’s allowance.”, and  
(c) in paragraph (8) at the end there shall be added “and the Children (Northern Ireland) Order 1995(9)”.

#### **Amendment of regulation 17 of the principal Regulations**

9. In regulation 17(1) of the principal Regulations (applicable amounts) for “18 to 22” there shall be substituted “18 to 22A”.

#### **Amendment of regulation 18 of the principal Regulations**

10. In regulation 18 of the principal Regulations(10) (polygamous marriages)—

- (a) in paragraph (1)—  
(i) for “19 to 22” there shall be substituted “19 to 22A”, and  
(ii) in sub-paragraph (b) for “paragraph (1)(3)(c)” there shall be substituted “paragraph (1)(3)(d)”, and  
(b) in paragraph (2) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

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(6) Head (v) was substituted by regulation 2(2) of S.R. 1995 No. 67

(7) Paragraph (f) was amended by regulation 2(b) of S.R. 1992 No. 147

(8) Relevant amending regulations are S.R. 1988 No. 146, S.R. 1989 No. 139 and S.R. 1990 No. 131

(9) S.I. 1995/755 (N.I. 2)

(10) Relevant amending regulations are S.R. 1988 No. 274

- “(b) that partner is a person who—
- (i) had he not been a member of a polygamous marriage would have qualified for income support under regulation 4ZA(11),
  - (ii) satisfies the requirements of Article 5(1)(f)(iii) of the Jobseekers Order (prescribed circumstances for persons aged 16 but less than 18), or
  - (iii) is the subject of a direction under Article 18 of the Jobseekers Order (persons under 18: severe hardship).”.

### **Amendment of regulation 19 of the principal Regulations**

11. In regulation 19(1) of the principal Regulations(12) (applicable amounts for persons in residential care and nursing homes) for “regulation 22” there shall be substituted “regulation 22A”.

### **Amendment of regulation 21 of the principal Regulations**

12. In regulation 21(1) of the principal Regulations(13) (special cases) for “regulation 22” there shall be substituted “regulation 22A”.

### **Insertion of regulation 22A in the principal Regulations**

13. After regulation 22 of the principal Regulations (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification) there shall be inserted the following regulation—

**“Reduction in applicable amount where the claimant is appealing against a decision that he is not incapable of work**

22A.—(1) Subject to paragraph (3), where a claimant falls within paragraph 25 of Schedule 1B(14) (persons appealing against a decision that they are not incapable of work under the all work test), and none of the other paragraphs of that Schedule applies to him, his applicable amount shall be reduced by a sum equivalent to 20 per cent. of the following amount—

- (a) in the case of a person to whom regulation 17 or 18 or paragraph 6, 9, 10, 11, 12, 14 or 15(c)(i) or (d)(i) of Schedule 7 applies—
  - (i) where he is a single claimant aged less than 18 or a member of a couple or a polygamous marriage where all the members, in either case, are less than 18, the amount specified in Column (2) of paragraph 1(1)(a), (b) or (c), as the case may be, of Schedule 2 (applicable amounts),
  - (ii) where he is a single claimant aged not less than 18 but less than 25 or a member of a couple or a polygamous marriage where one member is aged not less than 18 but less than 25 and the other member, or in the case of a polygamous marriage each other member, is a person under 18 who—
    - (aa) does not qualify for income support under regulation 4ZA, or who would not so qualify if he were to make a claim;

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(11) Regulation 4ZA is inserted by regulation 4 of these Regulations

(12) Relevant amending regulations are [S.R. 1988 No. 146](#) and [S.R. 1993 No. 149](#)

(13) Relevant amending regulations are [S.R. 1994 No. 77](#)

(14) Schedule 1B is inserted by Schedule 1 to these Regulations

- (bb) does not satisfy the requirements of Article 5(1)(f)(iii) of the Jobseekers Order (prescribed circumstances for persons aged 16 but less than 18), and
  - (cc) is not the subject of a direction under Article 18 of the Jobseekers Order (persons under 18: severe hardship),  
the amount specified in Column (2) of paragraph 1(1)(d) of that Schedule,
  - (iii) where he is a single claimant aged not less than 25 or a member of a couple or a polygamous marriage (other than a member of a couple or a polygamous marriage to whom head (ii) applies) at least one of whom is aged not less than 18, the amount specified in Column (2) of paragraph 1(1)(e) of that Schedule;
  - (b) in the case of a person to whom regulation 19 (persons in residential care homes and nursing homes) applies, the amount allowed for personal expenses for him specified in paragraph 12 of Schedule 4.
- (2) A reduction under paragraph (1) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2·5p but not of 5p, to the next lower multiple of 5p.
- (3) Paragraph (1) shall not apply to a claimant who is appealing against a decision that he is not incapable of work under the all work test where that decision was made on the first application of the test to the claimant, and the claimant was, immediately prior to 13th April 1995, either—
- (a) in receipt of invalidity pension under Part II of the Contributions and Benefits Act as then in operation, or severe disablement allowance; or
  - (b) incapable of work in accordance with paragraph 5 of Schedule 1 as in operation on 12th April 1995 and had been so for a continuous period of 28 weeks.”.

#### **Amendment of regulation 23 of the principal Regulations**

**14.** In regulation 23(4) of the principal Regulations(**15**) (calculation of income and capital of members of claimant’s family and of a polygamous marriage)—

- (a) for “paragraph 1(3)(b), (e) or (f)” there shall be substituted “paragraph 1(3)(b), (c), (f) or (g)”;
- (b) in sub-paragraph (a) for “paragraph 1(3)(b)” there shall be substituted “paragraph 1(3)(c)”, and
- (c) in sub-paragraph (b) for “paragraph 1(3)(e) or (f)” there shall be substituted “paragraph 1(3)(f) or (g)”.

#### **Amendment of regulation 31 of the principal Regulations**

**15.** In regulation 31(2) of the principal Regulations(**16**) (date on which income is treated as paid) for “unemployment benefit” there shall be substituted “jobseeker’s allowance”.

#### **Amendment of regulation 32 of the principal Regulations**

**16.** In regulation 32(4) of the principal Regulations(**17**) (calculation of weekly amount of income)

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(15) Paragraph (4) was inserted by regulation 6(1)(c) of S.R. 1988 No. 274

(16) Relevant amending regulations are S.R. 1988 Nos. 146 and 318 and S.R. 1995 No. 67

(17) Relevant amending regulations are S.R. 1988 Nos. 146 and 318 and S.R. 1995 No. 67

- (a) in sub-paragraph (a) “unemployment benefit” shall be omitted, and
- (b) in sub-paragraph (b) after “income support” there shall be inserted “or jobseeker’s allowance”.

#### **Amendment of regulation 42 of the principal Regulations**

17. In regulation 42(2) of the principal Regulations(18) (notional income) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

- “(c) jobseeker’s allowance;”.

#### **Amendment of regulation 71 of the principal Regulations**

18. In regulation 71(1) of the principal Regulations(19) (applicable amounts in urgent cases)—

- (a) in sub-paragraph (a)(i) for the words following “(polygamous marriages);” to the end there shall be substituted “and where regulation 22A(20) (reduction in applicable amount where the claimant is appealing against a decision that he is not incapable of work) applies, the reference in this head to 90 per cent. of the amount applicable shall be construed as a reference to 90 per cent. of the relevant amount under that regulation reduced by 20 per cent.,” and
- (b) in sub-paragraph (b)(i) for the words following “all of them;” to the end there shall be substituted “and where regulation 22A (reduction in applicable amount where the claimant is appealing against a decision that he is not incapable of work) applies, the reference in this head to 90 per cent. of the amount shall be construed as a reference to 90 per cent. of the relevant amount under that regulation reduced by 20 per cent.”.

#### **Amendment of regulation 73 of the principal Regulations**

19. In regulation 73(3) of the principal Regulations(21) (amount of income support payable for part-weeks) for “unemployment benefit” there shall be substituted “jobseeker’s allowance”.

#### **Amendment of regulation 75 of the principal Regulations**

20. In regulation 75(b), (e) and (f) of the principal Regulations (modifications in the calculation of income) for “unemployment benefit” in each place where those words occur there shall be substituted “jobseeker’s allowance”.

#### **Amendment of regulation 76 of the principal Regulations**

21. In regulation 76(a) of the principal Regulations (reduction in certain cases) for the words from the beginning of the paragraph to “applies” there shall be substituted “in the case of a claimant to whom regulation 22A (reduction in applicable amount where the claimant is appealing against a decision that he is not incapable of work) applies”.

#### **Insertion of Schedule 1B in the principal Regulations**

22. Immediately before Schedule 2 to the principal Regulations (applicable amounts) there shall be inserted as Schedule 1B the Schedule set out in Schedule 1.

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(18) Relevant amending regulations are [S.R. 1988 No. 146](#) and [S.R. 1992 No. 147](#)

(19) Relevant amending regulations are [S.R. 1988 Nos. 146 and 318](#), [S.R. 1989 No. 139](#) and [S.R. 1993 Nos. 149 and 373](#)

(20) Regulation 22A is inserted by regulation 13 of these Regulations

(21) Regulations 73 to 77 were inserted by [S.R. 1988 No. 146](#); relevant amending regulations are [S.R. 1988 No. 318](#) and [S.R. 1995 No. 67](#)

### **Amendment of Schedule 2 to the principal Regulations**

**23.** Schedule 2 to the principal Regulations(22) (applicable amounts) shall be amended in accordance with Schedule 2.

### **Amendment of Schedule 3 to the principal Regulations**

**24.** In Schedule 3 to the principal Regulations(23) (housing costs)—

(a) in paragraph 8(2) (new housing costs) for head (a) there shall be substituted the following head—

“(a) is a person to whom paragraph 4 or 5 of Schedule 1B (persons caring for another person) applies;”, and

(b) in paragraph 14 (linking rule)—

(i) in sub-paragraph (5)(a) after “unemployment benefit,” there shall be inserted “a contribution-based jobseeker’s allowance;”;

(ii) in sub-paragraph (5A)(24) for “paragraph 4 of Schedule 1 applies (persons with caring responsibilities not required to be available for employment)” there shall be substituted “paragraph 4 or 5 of Schedule 1B (persons caring for another person) applies”, and

(iii) in sub-paragraph (5B) for head (b) there shall be substituted the following head—

“(b) is a student, other than one who would qualify for income support under regulation 4ZA(3) (prescribed categories of person);”.

### **Amendment of Schedules 3A and 3B to the principal Regulations**

**25.** In Schedules 3A and 3B to the principal Regulations(25) (protected sum) in the definition of “protected sum” in paragraph 1(1) of each Schedule after “under this Schedule” there shall be inserted “or by virtue of regulation 87(2) of the Jobseekers Allowance (Northern Ireland) Regulations 1996(26)”.

### **Amendment of Schedule 10 to the principal Regulations**

**26.** In Schedule 10 to the principal Regulations (capital to be disregarded) in paragraph 7(b) after “an income-related benefit or” there shall be inserted “an income-based jobseeker’s allowance;”.

### **Transitional provisions**

**27.**—(1) Where on 6th October 1996 or at any time during the 8 weeks immediately preceding that date paragraph 4(1) of Schedule 1 to the principal Regulations(27) (persons caring for another person) as in operation on that date applied to a claimant, or would have applied to him if he had made a claim for income support, the claimant shall be treated for the purposes of paragraphs 5 and 6 of Schedule 1B to the principal Regulations as if, throughout the period that paragraph 4(1) of Schedule 1 applied or would have applied to him, paragraph 4 of Schedule 1B had applied or would have applied to him.

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(22) Relevant amending rules are [S.R. 1995 No. 71](#)

(23) Schedule 3 was substituted by [S.R. 1995 No. 301](#)

(24) Sub-paragraphs (5A) and (5B) were inserted by regulation 2(3)(h) of [S.R. 1995 No. 434](#)

(25) Schedule 3A was inserted by Schedule 2 to [S.R. 1988 No. 318](#); relevant amending regulations are [S.R. 1989 No. 139](#). Schedule 3B was inserted by Schedule 2 to [S.R. 1989 No. 139](#)

(26) [S.R. 1996 No. 198](#)

(27) Paragraph 4 was substituted by [S.R. 1991 No. 338](#) and amended by [S.R. 1992 No. 6](#)

(2) Where on 6th October 1996 paragraph 5 of Schedule 1 to the principal Regulations(**28**) (persons incapable of work) as in operation on that date applied to a claimant, the claimant shall be treated for the purposes of regulation 4(2)(c)(v) of, and paragraph 10 of Schedule 1B to, the principal Regulations as if, throughout the period that paragraph 5 of Schedule 1 applied to him, paragraph 7 of Schedule 1B had applied to him.

(3) Where—

- (a) a determination of the amount of a person's benefit has been made in a case to which regulation 4(5) of the Disability Working Allowance and Income Support (General) (Amendment) Regulations (Northern Ireland) 1995(**29**) as originally made had effect (amendments consequential on the coming into operation of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994: transitional provisions with respect to Income Support); and
- (b) an appeal to which regulations 8(2A)(**30**) or 11(2A)(**31**) of the principal Regulations as in operation on 2nd October 1995 referred (persons not required to be available or registered for employment), has still to be determined,

regulation 22A(1) of the principal Regulations (reduction in applicable amount where the claimant is appealing against a decision that he is not incapable of work) shall not apply to that person.

### Revocations

**28.** The regulations specified in Column (1) of Schedule 3 to these Regulations are revoked to the extent specified in Column (3) of that Schedule.

### Amendment of the Income Support (Transitional) Regulations

**29.**—(1) The Income Support (Transitional) Regulations (Northern Ireland) 1987(**32**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (interpretation) at the end there shall be added the following paragraph—

“(2) In these Regulations the expressions “transitional addition” and “special transitional addition” include any amount payable by virtue of regulation 87(1) of the Jobseekers Allowance Regulations (Northern Ireland) 1996.”.

(3) In regulation 2A(**33**) (permitted period)—

- (a) in paragraph (1)(a) “subject to paragraph (2),” shall be omitted, and
- (b) paragraphs (2) and (3) shall be omitted.

### Amendment of the Income Support (General) (Amendment No. 3) Regulations

**30.** In regulation 22 of the Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1991(**34**) (permitted period)—

- (a) in paragraph (1)(a) “subject to paragraph (2),” shall be omitted; and
- (b) paragraphs (2) and (3) shall be omitted.

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(28) Paragraph 5 was substituted by [S.R. 1995 No. 67](#)

(29) [S.R. 1995 No. 67](#); relevant amending regulations are [S.R. 1995 No. 367](#)

(30) Paragraph (2A) was inserted by [S.R. 1995 No. 67](#)

(31) Paragraph (2A) was inserted by [S.R. 1995 No. 67](#)

(32) [S.R. 1987 No. 460](#)

(33) Regulation 2A was inserted by regulation 2 of [S.R. 1989 No. 371](#)

(34) [S.R. 1991 No. 338](#)

### **Amendment of the Income Support (General) (Amendment No. 5) Regulations**

**31.** In regulation 6 of the Income Support (General) (Amendment No. 5) Regulations (Northern Ireland) 1991(35) (definition of “permitted period”)—

- (a) in paragraph (1) “subject to paragraph (2),” shall be omitted; and
- (b) paragraphs (2) and (3) shall be omitted.

### **Continuity with jobseeker’s allowance**

**32.** In determining whether a person is entitled to income support, or whether any amount is applicable or payable, entitlement to an income-based jobseeker’s allowance shall be treated as entitlement to income support for the purposes of any requirement that a person is or has been entitled to income support for any period of time.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland  
on

15th May 1996.

*L. Frew*  
Assistant Secretary

SCHEDULE 1

Regulation 22

Schedule to be inserted before Schedule 2 to the principal Regulations

“SCHEDULE 1B

Regulation 4ZA

Prescribed Categories of Person

**Lone parents**

1. A person who is a lone parent and responsible for a child who is a member of his household.

**Single persons looking after foster children**

2. A single claimant or a lone parent with whom a child is boarded out by a Health and Social Services Board or an HSS trust or a voluntary organisation within the meaning of the Children (Northern Ireland) Order 1995(36).

**Persons temporarily looking after another person**

3. A person who is—
  - (a) looking after a child because the parent of that child or the person who usually looks after him is ill or is temporarily absent from his home; or
  - (b) looking after a member of his family who is temporarily ill.

**Persons caring for another person**

4. A person (the carer)—
  - (a) who is regularly and substantially engaged in caring for another person if—
    - (i) the person being cared for is in receipt of attendance allowance under section 64 of the Contributions and Benefits Act or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Contributions and Benefits Act,
    - (ii) the person being cared for has claimed attendance allowance under that section but only for the period up to the date of determination of that claim, or the period of 26 weeks from the date of that claim, whichever date is the earlier, or
    - (iii) the person being cared for has claimed entitlement to a disability living allowance but only for the period up to the date of determination of that claim, or the period of 26 weeks from the date of that claim, whichever date is the earlier; or
  - (b) who is engaged in caring for another person and who is in receipt of an invalid care allowance.
5. A person to whom paragraph 4 applied, but only for a period of 8 weeks from the date on which that paragraph ceased to apply to him.
6. A person who, had he previously made a claim for income support, would have fulfilled the conditions of paragraph 4, but only for a period of 8 weeks from the date on which he ceased to fulfil those conditions.

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(36) S.I. 1995/755 (N.I. 2)

### **Persons incapable of work**

7. A person who—
- (a) is incapable of work in accordance with the provisions of Part XIII A of the Contributions and Benefits Act(37) and the regulations made thereunder (incapacity for work);
  - (b) is treated as incapable of work by virtue of regulations made under section 167D of that Act(38) (persons to be treated as incapable or capable of work);
  - (c) is treated as capable of work by virtue of regulations made under section 167E(1) of that Act (disqualification etc); or
  - (d) is entitled to statutory sick pay.

### **Disabled workers**

8. A person to whom regulation 6(a) (persons not treated as engaged in remunerative work) applies.

### **Persons in employment living in residential care homes, nursing homes or residential accommodation**

9. A person to whom regulation 6(g) applies.

### **Disabled students**

10. A person who is a student and—
- (a) whose applicable amount includes the disability premium or severe disability premium; or
  - (b) who has satisfied the provisions of paragraph 7 for a continuous period of not less than 196 days, and for this purpose any 2 or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period.
11. A person who is a student and who—
- (a) immediately before 1st September 1990 was in receipt of income support by virtue of paragraph 7 of Schedule 1 as then in operation; or
  - (b) on or after that date makes a claim for income support and at a time during the period of 18 months immediately preceding the date of that claim was in receipt of income support either by virtue of that paragraph or regulation 13(2)(b),

but this paragraph shall not apply where for a continuous period of 18 months or more the person has not been in receipt of income support.

### **Deaf Students**

12. A person who is a student in respect of whom—
- (a) a supplementary requirement has been determined under paragraph 10 of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1995(39);
  - (b) a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986(40), or

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(37) Part XIII A was inserted by Article 7 of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

(38) Sections 167D and 167E were inserted by Article 8 of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(39) S.R. 1995 No. 1

(40) S.I. 1986/594

- (c) a supplementary requirement has been determined under paragraph 10 of Schedule 2 to the Education (Mandatory Awards) Regulations 1995<sup>(41)</sup> or an allowance or, as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 6 of the Students' Allowances (Scotland) Regulations 1991<sup>(42)</sup> or, as the case may be, the Education Authority Bursaries (Scotland) Regulations 1995<sup>(43)</sup> in respect of expenses incurred, or a payment has been made under section 2 of the Education Act 1962<sup>(44)</sup>,

on account of his disability by reason of deafness.

### **Blind persons**

13. A person who is a blind person registered with a Health and Social Services Board, established under Article 16 of the 1972 Order, but a person who has ceased to be registered as blind on regaining his eyesight shall nevertheless be treated as so registered for a period of 28 weeks following the date on which he ceased to be so registered.

### **Pregnancy**

14. A woman who—

- (a) is incapable of work by reason of pregnancy; or
- (b) is or has been pregnant but only for the period commencing 11 weeks before her expected week of confinement and ending 7 weeks after the date on which her pregnancy ends.

### **Persons in education**

15. A person to whom any provision of regulation 13(2)(a) to (e) (persons receiving relevant education who are parents, severely handicapped persons, orphans and persons estranged from their parents or guardian) applies.

### **Certain persons aged 50 who have not been in remunerative work for 10 years**

16.—(1) Subject to sub-paragraph (2), a person who on 6th October 1996 or at any time during the 8 weeks immediately preceding that date satisfied the conditions of paragraph 13 of Schedule 1 (persons aged not less than 50 who had not been in remunerative work during the previous 10 years) as in operation on that date.

(2) If a person to whom sub-paragraph (1) applies ceases to be entitled to income support, and subsequently makes a further claim for income support, this paragraph shall continue to apply to him only if—

- (a) the further claim for income support is made within 8 weeks of the date he ceased to be so entitled; and
- (b) he has not been in remunerative work since he ceased to be so entitled.

### **Persons aged 60 or over**

17. A person aged not less than 60.

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(41) S.I. 1995/3321

(42) S.I. 1991/1522

(43) S.I. 1995/1739

(44) 1962 c. 12

### **Refugees**

18. A person who is a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(45) as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(46) and who—

- (a) is attending for more than 15 hours a week a course for the purpose of learning English so that he may obtain employment; and
- (b) on the date on which that course commenced, had been in Northern Ireland for not more than 12 months,

but only for a period not exceeding 9 months.

### **Persons required to attend court**

19. A person who is required to attend court as a justice of the peace, a party to any proceedings, a witness or a juror.

### **Persons affected by a trade dispute**

20. A person to whom section 125 of the Contributions and Benefits Act(47) (trade disputes) applies or in respect of whom section 123(1) of that Act (conditions of entitlement to income support) has effect as modified by section 126(b) of that Act (effect of return to work).

### **Persons from abroad**

21. A person to whom regulation 70(3) (applicable amount of certain persons from abroad) applies.

### **Persons in custody**

22. A person remanded in, or committed in, custody for trial or for sentencing.

### **Member of couple looking after children while other member temporarily abroad**

23. A person who is a member of a couple and who is treated as responsible for a child who is a member of his household where the other member of that couple is temporarily not present in the United Kingdom.

### **Persons appealing against a decision that they are not incapable of work**

24. A person—

- (a) in respect of whom it has been determined for the purposes of section 167B of the Contributions and Benefits Act(48) (the own occupation test) that he is not incapable of work;
- (b) whose medical practitioner continues to supply evidence of his incapacity for work in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(49) (evidence of incapacity for work); and

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(45) Cmnd. 9171

(46) Cmnd. 3906

(47) Sections 125 and 126 are amended by paragraphs 14 and 15 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995

(48) Sections 167A to 167C were inserted by Article 7 of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(49) S.R. 1976 No. 175; regulation 2 is amended by S.R. 1982 No. 153, S.R. 1987 No. 117, S.R. 1992 No. 83, S.R. 1994 No. 468 and S.R. 1995 No. 149

- (c) who has made and is pursuing an appeal against the determination that he is not so incapable,

but only for the period prior to the determination of his appeal.

25. A person—

- (a) in respect of whom it has been determined for the purposes of section 167C of the Contributions and Benefits Act (the all work test) that he is not incapable of work; and  
 (b) who has made and is pursuing an appeal against the determination that he is not so incapable,

but only for the period prior to the determination of his appeal.

26. A person who on 6th October 1996 was not required to be available for employment by virtue of regulation 8(2) (persons appealing against decisions that they are not incapable of work) as modified by the savings provision in regulation 5(1) or (3) of the Disability Working Allowance and Income Support (General) (Amendment) Regulations (Northern Ireland) 1995<sup>(50)</sup>, but only for the period prior to the determination of his appeal.

27. A person who on 6th October 1996 was not required to register for employment by virtue of regulation 11(2) (persons appealing against decisions that they are not incapable of work) as modified by the savings provision in regulation 5(2) or (3) of the Disability Working Allowance and Income Support (General) (Amendment) Regulations (Northern Ireland) 1995, but only for the period prior to the determination of his appeal.

28. A person who is engaged in training, and for this purpose “training” means training for which persons aged under 18 are eligible and for which persons aged 18 to 24 may be eligible provided in Northern Ireland directly or indirectly by a Training Organisation pursuant to its arrangement with the Department of Economic Development (whether that agreement is known as an Operating Agreement or by any other name).”.

## SCHEDULE 2

Regulation 23

### Amendment of Schedule 2 to the principal Regulations

1. Schedule 2 to the principal Regulations (applicable amounts) shall be amended in accordance with paragraphs 2 to 4.

2. In paragraph 1(1) and (2)<sup>(51)</sup> in Column (1) for head (b) there shall be substituted the following head—

“(b) less than 18 who falls within any of the circumstances specified in paragraph 1A;”.

3. In paragraph 1 for sub-paragraph (3)<sup>(52)</sup> there shall be substituted the following sub-paragraph

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“(3) Couple— (3) £57·20

(a) where both members are aged less than 18 and—

(i) at least one of them is treated as responsible for a child,

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<sup>(50)</sup> S.R. 1995 No. 67

<sup>(51)</sup> Sub-paragraphs (1) and (2) were substituted by regulation 2 of S.R. 1990 No. 213

<sup>(52)</sup> Sub-paragraph (3) was substituted by regulation 9 of S.R. 1988 No. 274 and amended by S.R. 1989 No. 249

- (ii) had they not been members of a couple, each would have qualified for income support under regulation 4ZA,
  - (iii) the claimant's partner satisfies the requirements of Article 5(1)(f)(iii) of the Jobseekers Order (prescribed circumstances for persons aged 16 but less than 18), or
  - (iv) there is in force in respect of the claimant's partner a direction under Article 18 of the Jobseekers Order (persons under 18: severe hardship);
- (b) where both members are aged less than 18 and head (a) does not apply but one member of the couple falls within any of the circumstances specified in paragraph 1A; (b) £37·90
- (c) where both members are aged less than 18 and heads (a) and (b) do not apply; (c) £28·85
- (d) where both members are aged not less than 18; (d) £75·20
- (e) where one member is aged not less than 18 and the other member is a person under 18 who— (e) £75·20
- (i) qualifies for income support under regulation 4ZA, or who would so qualify if he were not a member of a couple,
  - (ii) satisfies the requirements of Article 5(1)(f)(iii) of the Jobseekers Order (prescribed circumstances for persons aged 16 but less than 18), or
  - (iii) is the subject of a direction under Article 18 of the Jobseekers Order (persons under 18: severe hardship);
- (f) where the claimant is aged not less than 18 but less than 25 and his partner is a person under 18 who— (f) £37·90
- (i) would not qualify for income support under regulation 4ZA if he were not a member of a couple,

- (ii) does not satisfy the requirements of Article 5(1)(f)(iii) of the Jobseekers Order (prescribed circumstances for persons aged 16 but less than 18), and
  - (iii) is not the subject of a direction under Article 18 of the Jobseekers Order (persons under 18: severe hardship);
- (g) where the claimant is aged not less than 25 and his partner is a person under 18 who—
- (i) would not qualify for income support under regulation 4ZA if he were not a member of a couple,
  - (ii) does not satisfy the requirements of Article 5(1)(f)(iii) of the Jobseekers Order (prescribed circumstances for persons aged 16 but less than 18), and
  - (iii) is not the subject of a direction under Article 18 of the Jobseekers Order (persons under 18: severe hardship).
- (g) £47·90”.

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4. After paragraph 1 there shall be inserted the following paragraph—

“1A.—(1) The circumstances referred to in paragraph 1 are that—

- (a) the person has no parents nor any person acting in the place of his parents;
- (b) the person—
  - (i) is not living with his parents nor any person acting in the place of his parents, and
  - (ii) was in the care of the Department under a relevant enactment and whilst in that care was not living with his parents or any close relative, or was in custody in any institution to which the Children and Young Persons Act (Northern Ireland) 1968 or the Treatment of Offenders Act (Northern Ireland) 1968(53) applied, immediately before he attained the age of 16;
- (c) the person is in accommodation which is other than his parental home, and which is other than the home of a person acting in the place of his parents, and entered that accommodation—
  - (i) as part of a programme of rehabilitation or resettlement, that programme being under the guidance of the Department, any other government department or the probation and after-care service,

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(53) 1968 c. 29 (N.I.)

- (ii) in order to avoid physical or sexual abuse, or
- (iii) because of a mental or physical handicap or illness and needs such accommodation because of his handicap or illness;
- (d) the person is living away from his parents and any person who is acting in the place of his parents in a case where his parents are or, as the case may be, that person is, unable financially to support him and his parents are, or that person is—
  - (i) chronically sick or mentally or physically disabled,
  - (ii) detained in custody pending trial or sentence upon conviction or under sentence imposed by a court, or
  - (iii) prohibited from entering or re-entering Northern Ireland; or
- (e) the person of necessity has to live away from his parents and any person acting in the place of his parents because—
  - (i) he is estranged from his parents and that person,
  - (ii) he is in physical or moral danger, or
  - (iii) there is a serious risk to his physical or mental health.
- (2) In this paragraph—
  - (a) “chronically sick or mentally or physically disabled” has the same meaning it has in regulation 13(3)(b) (circumstances in which persons in relevant education are to be entitled to income support);
  - (b) any reference to a person acting in place of a person’s parents includes a reference to the Department, any other government department or voluntary organisation where the person is in their care under a relevant enactment, or to a person with whom the person is boarded out by the Department or voluntary organisation whether or not any payment is made by them.”.

## SCHEDULE 3

Regulation 28

## Revocations

Column (1) Citation	Column (2) Reference	Column (3) Extent of Revocation
The Income Support (General) Regulations (Northern Ireland) 1987	<a href="#">S.R. 1987 No. 459</a>	Regulations 7, 8, 9, 10, 10A, 11, 13A and 22, and Schedules 1 and 1A
The Income Support (General) (Amendment) Regulations (Northern Ireland) 1988	<a href="#">S.R. 1988 No. 146</a>	Regulations 6, 7, 11 and 29
The Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1988 The Income Support (General) (Amendment No. 4) Regulations (Northern Ireland) 1988 The Income Support (General) (Amendment No. 5)	<a href="#">S.R. 1988 No. 274</a> <a href="#">S.R. 1988 No. 318</a> <a href="#">S.R. 1988 No. 431</a>	Regulations 2(a), 4, 7, 8 and the Schedule Regulation 17 Regulation 14

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Column (1) Citation	Column (2) Reference	Column (3) Extent of Revocation
Regulations (Northern Ireland) 1988		
The Income Support (General) (Amendment) Regulations (Northern Ireland) 1989	<a href="#">S.R. 1989 No. 139</a>	Schedule 1, paragraph 6
The Family Credit and Income Support (General) (Amendment) Regulations (Northern Ireland) 1989	<a href="#">S.R. 1989 No. 249</a>	Regulations 6 and 10
The Income Support (General) (Amendment No. 2) Regulations (Northern Ireland) 1989	<a href="#">S.R. 1989 No. 326</a>	Regulation 3
The Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1989	<a href="#">S.R. 1989 No. 365</a>	Regulations 4, 5, 6 and 7
The Income Support (General) (Amendment) Regulations (Northern Ireland) 1990 The Social Security Benefits (Student Loans and Miscellaneous Amendments) Regulations (Northern Ireland) 1990 The Income-Related Benefits (Amendment) Regulations (Northern Ireland) 1990	<a href="#">S.R. 1990 No. 131</a> <a href="#">S.R. 1990 No. 297</a> <a href="#">S.R. 1990 No. 305</a>	Regulations 9, 13 and 14 Regulation 4(3) and (8) Regulation 4(2) and (3)
The Income Support (General) (Amendment) Regulations (Northern Ireland) 1991	<a href="#">S.R. 1991 No. 46</a>	Regulations 2, 3, 5, 7, 9 and 10
The Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1991	<a href="#">S.R. 1991 No. 338</a>	Regulations 11 and 12
The Disability Living Allowance and Disability Working Allowance (Consequential Provisions) Regulations (Northern Ireland) 1992	<a href="#">S.R. 1992 No. 6</a>	Regulation 10(3)
The Income Support (General) (Amendment) Regulations (Northern Ireland) 1992	<a href="#">S.R. 1992 No. 147</a>	Regulations 2(b) and 4
The Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1992	<a href="#">S.R. 1992 No. 471</a>	The whole of the Regulations

Column (1) Citation	Column (2) Reference	Column (3) Extent of Revocation
Regulations (Northern Ireland) 1992		
The Social Security Benefits (Amendments Consequential Upon the Introduction of Community Care) Regulations (Northern Ireland) 1993	<a href="#">S.R. 1993 No. 149</a>	Schedule 2, paragraph 6(7)
The Income-Related Benefits (Miscellaneous Amendments) Regulations (Northern Ireland) 1994	<a href="#">S.R. 1994 No. 77</a>	Regulation 4(7)
The Health and Social Services Trusts (Consequential Amendments) Regulations (Northern Ireland) 1994 The Disability Working Allowance and Income Support (General) (Amendment) Regulations (Northern Ireland) 1995	<a href="#">S.R. 1994 No. 65</a> <a href="#">S.R. 1995 No. 67</a>	Schedule 12, paragraph 1(d) and (i) Regulation 2(3), (4), (5), (6) and (11)
The Income-Related Benefits and Social Security (Claims and Payments) (Miscellaneous Amendments) Regulations (Northern Ireland) 1995	<a href="#">S.R. 1995 No. 367</a>	Regulation 2(7)

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## EXPLANATORY NOTE

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

These Regulations further amend the Income Support (General) Regulations (Northern Ireland) 1987 (“the principal Regulations”). The amendments are consequential on the coming into operation of the Jobseekers (Northern Ireland) Order 1995 (“the Order”), which replaces income support for the unemployed and unemployment benefit with jobseeker’s allowance.

Jobseeker’s allowance is the new social security benefit for people who are required to be available for and actively seek employment. It is no longer a condition of entitlement to income support that a claimant is available for and actively seeking employment; instead there is a list of the categories of person who are eligible to claim income support (regulations 4 and 22 and Schedule 1, which insert the new regulation 4ZA and Schedule 1B into the principal Regulations).

All the regulations relating to availability for and actively seeking employment are revoked (regulation 28 and Schedule 3), including regulation 22 of the principal Regulations which reduces applicable amounts for claimants who have been disqualified for unemployment benefit or who are appealing against decisions that they are not incapable of work. The latter reduction is however

continued in a new regulation (regulation 13, which inserts regulation 22A into the principal Regulations).

The special entitlement and registration rules for claimants aged 16 or 17 are also revoked; however special applicable amounts for this age group continue (regulation 23 and Schedule 2).

There is special provision for claimants who may be entitled alternately to income support or jobseeker's allowance, so that entitlement to an income-based jobseeker's allowance may count towards satisfaction of any condition where a claimant is required to have been entitled to income support for a certain period of time (regulation 32).

The remainder of these Regulations contain various minor consequential amendments and transitional provisions.

These Regulations are made pursuant to Article 39 of the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and section 123(1)(e) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) and are made before the end of the period of 6 months beginning with the date those provisions came into operation (5th February 1996). Accordingly they are exempted by section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) from reference to the Social Security Advisory Committee and have not been so referred.