

SCHEDULE 1

Regulation 1(3)

Meaning of “child” for the purposes of the Order

Persons of 16 or 17 years of age who are not in full-time non-advanced education

1.—(1) Subject to sub-paragraph (3), the conditions which must be satisfied for a person to be a child within Article 3(1)(c) of the Order are—

- (a) the person is registered for work or for training under a relevant training scheme with—
 - (i) the Department of Higher and Further Education, Training and Employment;
 - (ii) the Ministry of Defence;
 - (iii) an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986(1);
 - (iv) for the purposes of applying Council Regulation (EEC) No. 1408/71(2), any corresponding body in another member State;
 - (b) the person is not engaged in remunerative work, other than work of a temporary nature that is due to cease before the end of the extension period which applies in the case of that person;
 - (c) the extension period which applies in the case of that person has not expired; and
 - (d) immediately before the extension period begins, the person is a child for the purposes of the Order without regard to this paragraph.
- (2) For the purposes of sub-paragraph (1)(b), (c) and (d), the extension period—
- (a) begins on the first day of the week in which the person would no longer be a child for the purposes of the Order but for this paragraph; and
 - (b) where a person ceases to fall within Article 3(1)(a) of the Order or within paragraph 5—
 - (i) on or after the first Monday in September, but before the first Monday in January of the following year, ends on the last day of the week which falls immediately before the week which includes the first Monday in January in that year;
 - (ii) on or after the first Monday in January but before the Monday following Easter Monday in that year, ends on the last day of the week which falls 12 weeks after the week which includes the first Monday in January in that year;
 - (iii) at any other time of the year, ends on the last day of the week which falls 12 weeks after the week which includes the Monday following Easter Monday in that year.
- (3) A person shall not be a child for the purposes of the Order under this paragraph if—
- (a) he is engaged in training under a relevant training scheme; or
 - (b) he is entitled to income support or an income-based jobseeker’s allowance.

Meaning of “advanced education” for the purposes of Article 3 of the Order

2. For the purposes of Article 3 of the Order “advanced education” means education of the following description—

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- (1) S.I. 1986/594 (N.I. 3); Article 3 was amended by Schedule 9 to the Education Reform (Northern Ireland) Order 1989 (S.I. 1989/2406 (N.I. 20))
 - (2) O.J. No. L149, 5.7.1971; Regulations (EEC) No. 1408/71 and No. 574/72 were restated in amended form in Council Regulation (EEC) No. 2001/83 (O.J. No. L230, 22.8.1983) and further amended by Council Regulations (EEC) Nos. 1660/85 (O.J. No. L160, 20.6.1985); 1661/85 (O.J. No. L160, 20.6.1985) and 3811/86 (O.J. No. L355, 16.12.1986); Commission Regulation (EEC) No. 513/86 (O.J. No. L51, 28.2.1986) and Articles 60 and 220 of, and Point 1, Part VIII of Annex 1 to the Act of Accession to the European Communities of Spain and Portugal

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- (a) a course in preparation for a degree, a Diploma of Higher Education, a higher national diploma, a higher national diploma or higher national certificate of the Business and Technology Education Council or the Scottish Qualifications Council or a teaching qualification; or
- (b) any other course which is of a standard above that of an ordinary national diploma, a national diploma or a national certificate of the Business and Technology Education Council or the Scottish Qualifications Authority, the advanced level of the General Certificate of Education, a Scottish certificate of education (higher level), a Scottish certificate of sixth year studies, or a Scottish National Qualification at Higher Level.

Circumstances in which education is to be treated as full-time education

3. For the purposes of Article 3 of the Order education shall be treated as being full-time if it is received by a person attending a course of education at a recognised educational establishment and the time spent receiving instruction or tuition, undertaking supervised study, examination of practical work or taking part in any exercise, experiment or project for which provision is made in the curriculum of the course, exceeds 12 hours per week, so however that in calculating the time spent in pursuit of the course, no account shall be taken of time occupied by meal breaks or spent on unsupervised study, whether undertaken on or off the premises of the educational establishment.

Interruption of full-time education

4.—(1) Subject to sub-paragraph (2), in determining whether a person falls within Article 3(1) (b) of the Order no account shall be taken of a period (whether beginning before or after the person concerned attains age 16) of up to 6 months of any interruption to the extent to which it is accepted that the interruption is attributable to a cause which is reasonable in the particular circumstances of the case; and where the interruption or its continuance is attributable to the illness or disability of mind or body of the person concerned, the period of 6 months may be extended for such further period as the Department considers reasonable in the particular circumstances of the case.

(2) The provisions of sub-paragraph (1) shall not apply to any period of interruption of a person's full-time education which is likely to be followed immediately or which is followed immediately by a period during which—

- (a) provision is made for the training of that person, and for an allowance to be payable to that person, under a relevant training scheme; or
- (b) he is receiving education by virtue of his employment or of any office held by him.

Circumstances in which a person who has ceased to receive full-time education is to be treated as continuing to fall within Article 3(1) of the Order

5.—(1) Subject to sub-paragraphs (2) and (5), a person who has ceased to receive full-time education (which is not advanced education) shall, if—

- (a) he is under the age of 16 when he so ceases, from the date on which he attains that age; or
- (b) he is 16 or over when he so ceases, from the date on which he so ceases,

be treated as continuing to fall within Article 3(1) of the Order up to and including the week including the terminal date, or if he attains the age of 19 on or before that date, up to and including the week including the last Monday before he attains that age.

(2) In the case of a person specified in sub-paragraph (1)(a) or (b) who had not attained the upper limit of compulsory school age when he ceased to receive full-time education, the terminal date shall be that specified in sub-paragraph (3)(a), (b) or (c), whichever next follows the date on which he would have attained that age.

(3) In this paragraph the “terminal date” means—

- (a) the first Monday in January; or
- (b) the Monday following Easter Monday; or
- (c) the first Monday in September,

whichever first occurs after the date on which the person’s said education ceased.

(4) In this paragraph “compulsory school age” means compulsory school age as determined in accordance with Article 46 of the Education and Libraries (Northern Ireland) Order 1986⁽³⁾.

(5) A person shall not be treated as continuing to fall within Article 3(1) of the Order under this paragraph if he is engaged in remunerative work, other than work of a temporary nature that is due to cease before the terminal date.

(6) Subject to sub-paragraphs (5) and (8), a person whose name was entered as a candidate for any external examination in connection with full-time education (which is not advanced education), which he was receiving at the time, shall so long as his name continued to be so entered before ceasing to receive such education be treated as continuing to fall within Article 3(1) of the Order for any week in the period specified in sub-paragraph (7).

(7) Subject to sub-paragraph (8), the period specified for the purposes of sub-paragraph (6) is the period beginning with and including the date when that person ceased to receive such education ending with—

- (a) whichever of the dates in sub-paragraph (3) first occurs after the conclusion of the examination (or the last of them, if there are more than one); or
- (b) the expiry of the week which includes the last Monday before his 19th birthday,

whichever is the earlier.

(8) The period specified in sub-paragraph (7) shall, in the case of a person who had not attained the age of 16 when he so ceased, begin with and include the date on which he did attain that age.

Interpretation

6. In this Schedule—

“relevant training scheme” means—

- (a) arrangements under section 1 of the Employment and Training Act (Northern Ireland) 1950⁽⁴⁾ (general functions of Department of Higher and Further Education, Training and Employment as to employment and training for employment);
- (b) means arrangements made by the Secretary of State for persons enlisted in Her Majesty’s forces for any special term of service specified in regulations made under section 2 of the Armed Forces Act 1966⁽⁵⁾ (power of Defence Council to make regulations as to engagement of persons in regular forces); or
- (c) for the purposes of the application of Council Regulation (EEC) No. 1408/71, any corresponding provisions operated in another member State,

for purposes which include the training of persons who, at the beginning of their training, are under the age of 18.

“remunerative work” means work of not less than 24 hours a week—

(3) S.I. 1986/594 (N.I. 3); Article 46 was substituted by Article 156 of the Education Reform (Northern Ireland) Order 1989 (S.I. 1989/2406 (N.I. 20))

(4) 1950 c. 29 (N.I.); section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10)) and by Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8)). See S.R. 1999 No. 481

(5) 1966 c. 45; section 2 was amended by section 2 of the Army Act 1992 (c. 39)

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- (a) in respect of which payment is made; or
 - (b) which is done in expectation of payment;
- “week” means a period of 7 days beginning with a Monday.