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STATUTORY INSTRUMENTS

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**1983 No. 1598**

**The Social Security (Unemployment, Sickness  
and Invalidity Benefit) Regulations 1983**

**PART II**

**PROVISIONS OF GENERAL APPLICATION**

**Persons deemed to be incapable of work**

**3.—(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 a Medical Officer for Environmental Health 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.

(3) A person, who is suffering from some specific disease or bodily or mental disablement but who, by reason only of the fact that he has done some work while so suffering, is found not to be incapable of work by reason thereof, may be deemed to be so incapable if that work is—

- (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 either case, his earnings do not ordinarily exceed £22.50 a week.

**Special provisions relating to day substituted for Sunday**

**4.—(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 earner 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 earner 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**

**5.—(1)** For the purposes of unemployment benefit, sickness benefit and invalidity benefit, where a period of unemployment 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**

6.—(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 regulation 7(1)(g).

(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**

7.—(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 4) 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 Manpower Services Commission; or
- (ii) a training course or course of instruction provided in pursuance of arrangements made with the said Commission by any public authority, firm or person; or
- (iii) a course of training in agricultural occupations provided by, or in pursuance of arrangements made by, the Minister of Agriculture, Fisheries and Food or the Secretary of State;

and payment of training allowance is made by or on behalf of the said Commission, that Minister or the Secretary of State to the said person for his attendance at the course in question;

(g) subject to regulations 9, 10, 11 and 12, a day shall not be treated as a day of unemployment if on that day a person is engaged in any employment unless—

- (i) the earnings derived from that employment, in respect of that day, do not exceed £2.00, 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
- (ii) he is available on that day to be employed full-time in some employed earner's employment; and
- (iii) if the employment in which he is engaged is employed earner's employment, it is not in his usual main occupation or it is done for, or organised through, a local authority, health authority, preserved board or health board in providing a service which is capable of being provided by a charity, or it is done for, or organised through, a charity;

(h) 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 the provisions of 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 Great Britain 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 Great Britain 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 his case, or any other day of holiday granted in lieu thereof;

- (i) where the Secretary of State has given or sent a written notice to a person directing him to report to an officer of the Department of Health and Social Security, the Department of Employment, the Manpower Services Commission or a local education authority 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 officer at the specified place for such an interview, or before a day on which the Secretary of State 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 Secretary of State rescinds the said notice, that person shows good cause for his failure to report;
- (j) where a person—
  - (i) has failed to comply with a written notice given or sent to him by the Secretary of State requesting him to report to an officer of the Department of Employment 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 fails to comply with the requirements of the said notice the Secretary of State gives or sends him a further notice directing him to report to an officer of the Department of Employment 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 of Employment at a place specified in the further notice in order to make such a written declaration or before the Secretary of State 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 Secretary of State rescinds the further notice, he shows good cause for his failure to report;
- (k) a day shall not be treated as a day of unemployment in relation to any person if it is day in respect of which there is payable to that person—
  - (i) a guarantee payment under section 12 of the Employment Protection (Consolidation) Act 1978 or under a collective agreement or a wages order having regard to which the appropriate Minister has made an exemption order under section 18 of that Act, or a guarantee payment under a collective agreement or under a wages order referred to in the said section 18 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; or
  - (ii) remuneration under section 19 of the Employment Protection (Consolidation) Act 1978 while he is suspended from work on medical grounds; or
  - (iii) an amount specified by an industrial tribunal, on making an order under section 69 or 77 of the Employment Protection (Consolidation) Act 1978 for reinstatement or re-engagement, as payable to that person or an amount awarded to that person under section 71 or 79 of that Act as compensation for unfair dismissal or for non-

compliance with an order under section 77(7), (8) or (9) of that Act, 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

- (iv) an amount specified by an industrial tribunal, on making an order under section 77 or 79 of the Employment Protection (Consolidation) Act 1978 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
- (v) remuneration under a protective award made under section 101 of the Employment Protection Act 1975 or an amount ordered to be paid under section 103 of that Act;

and in this sub-paragraph any reference to an industrial tribunal shall be construed as including also a reference to the Employment Appeal Tribunal;

- (1) 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 Secretary of State under section 1 of the Employment Subsidies Act 1978 (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**

**8.—(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 applies, if that regulation did not apply; and
- (c) in a case to which paragraph (2)(c) applies and in which the widow has 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, 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;
- (b) 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 Secretary of State in his discretion;

- (c) 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; and
- (d) 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 1965 and having effect in respect of the day in question.

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

9. 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 Acts 1947 to 1959;

shall be deemed to be available to be employed in employed earner's employment, and regulation 7(1)(g) shall not apply to him.

### **Availability of persons undertaking duties in an emergency**

10.—(1) Where a person is engaged, during an emergency, in duties for the benefit of others, then, while he is so engaged—

- (a) he shall be deemed to be available for employment in employed earner's employment; and
- (b) regulation 7(1)(g) shall apply to him as if head (ii) were omitted.

(2) For the purposes of this regulation a person is engaged in duties for the benefit of others while—

- (a) providing assistance to any person whose life may be endangered or who may be exposed to the risk of serious bodily injury or whose health may be seriously impaired;
- (b) protecting property of substantial value from imminent risk of serious damage or destruction; or
- (c) assisting in measures being taken to prevent a serious threat to the health of the people;

as a member of a group of persons organised wholly or partly for the purpose of providing such assistance or, as the case may be, protection.

(3) For the purposes of paragraph (1), events which may give rise to an emergency include—

- (a) a fire, a flood or an explosion;
- (b) a natural catastrophe;
- (c) a railway or other accident;
- (d) a cave or mountain accident;
- (e) a person being reported missing and the organisation of a search for that person.

### **Availability of persons attending work camps**

11.—(1) Subject to paragraph (2), where a person who has given notice in accordance with paragraph (3) attends a work camp situated in Great Britain and this necessitates his residing at a place other than his usual place of residence, he shall be deemed to be available to be employed in employed earner's employment on each day, subject to a maximum of 14 days (excluding Sundays or the day substituted for it by regulation 4(1)), on which he attends the camp, and on those days regulation 7(1)(g) shall apply to him as if head (ii) were omitted.

(2) This regulation shall apply to one period only of attendance at a work camp in any calendar year.

(3) For the purposes of paragraph (1), notice is given when it is sent or delivered, before the person concerned attends the work camp to which it relates, to the unemployment benefit office at which that person last made a written declaration as to his unemployment and his availability for employment.

(4) In this regulation, “work camp” means any place where people come together under the auspices of a charity or a local authority to provide a service of benefit to the community.

### **Availability of persons requiring 24 hours' notice of job opportunities**

**12.**—(1) Where on any day a person is engaged, whether by contract or otherwise, in providing a service with or without remuneration and the circumstances are such that it would not be reasonable to require him, as a condition of qualifying for unemployment benefit, to make himself available at less than 24 hours' notice—

- (a) for employment in employed earner's employment;
- (b) for interview in connection with any such employment for which an opportunity arises; or
- (c) for interview by an officer of the Manpower Services Commission, the Department of Employment, a local education authority or the Department of Health and Social Security in connection with his availability for employment generally or in any particular case;

he shall be deemed on that day to be available for employment in employed earner's employment if ready on being given not less than 24 hours' notice to undertake suitable employment or attend for interview, as the case may require.

(2) On any day on which a person is engaged as aforesaid regulation 7(1)(g) shall apply to him as if head (ii) were omitted.

### **Reckoning of periods of interruption of employment**

**13.**—(1) For the purpose of reckoning periods of interruption of employment, and for that purpose only, a person shall be deemed to be available to be employed in employed earner's employment on any day specified in paragraph (2) and any such day shall be treated as a day of unemployment.

- (2) The days specified for the purpose of paragraph (1) are—
- (a) any day to which regulation 7(1)(f) (days when a person is attending a training course not to be treated as days of incapacity for work) applies;
  - (b) any day in respect of which the person concerned is entitled to a supplementary allowance under the Supplementary Benefits Act 1976 if on that day regulation 6(p) of the Supplementary Benefit (Conditions of Entitlement) Regulations 1981(1) applies to him (persons of 60 and over who, for the purposes of entitlement to supplementary allowance, are not subject to condition of availability).

### **Reckoning periods of interruption of employment for persons approaching retirement**

**14.**—(1) The following provisions of this regulation apply only to days falling within the tax year in which a person attains the age of 60 and to any day thereafter on which that person is below the age of 70 in the case of a man or 65 in the case of a woman.

(2) For the purpose of reckoning periods of interruption of employment, and for that purpose only, a person shall be deemed to be available to be employed in employed earner's employment on any day specified in paragraph (3) and any such day shall be treated as a day of unemployment.

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(1) The relevant amending instruments are S.I. 1982/907, 1983/463.



(3) Where—

- (a) a person makes a claim for unemployment benefit for a day such as is referred to in paragraph (1); and
- (b) that day forms part of a period of interruption of employment; and
- (c) the decision of the determining authority is that benefit is not payable because—
  - (i) the claimant has exhausted his right to unemployment benefit; or
  - (ii) he fails to satisfy one or both of the contribution conditions for entitlement to that benefit; or
  - (iii) the rate at which he would otherwise be entitled to unemployment benefit is reduced to nil by virtue of section 5 of the Social Security (No.2) Act 1980(2) (abatement of unemployment benefit on account of payment of occupational pension);all days which are subsequent to that day, other than days referred to in section 17(1)(e) of the Act, shall, subject to paragraph (1) and the following provisions of this regulation, be days specified for the purposes of paragraph (2).

(4) Any day of incapacity for work which forms part of a period of interruption of employment shall not be a day specified for the purposes of paragraph (2).

(5) Where a person who is deemed to be available to be employed in employed earner's employment in accordance with paragraph (2) is employed as an employed earner or a self-employed earner for a period of more than 8 weeks ("week" for this purpose meaning any period of 7 days), then no day which falls within or follows that period shall be a day specified for the purposes of paragraph (2), so however that this paragraph shall not prevent paragraph (2) from again applying to a person who makes a claim for unemployment benefit for a day following such a period.

(6) This regulation shall not apply to any day falling within a tax year commencing before 6th April 1983.

### **Reckoning periods of interruption of employment as a result of certain regular treatment**

**15.**—(1) With effect from 14th September 1980 section 17(1)(d)(ii) of the Act(3) (periods of incapacity for work which are to be treated as periods of interruption of employment) shall have effect, in the cases specified in paragraph (2), as if the period of 4 days mentioned there were a period of 2 days, whether consecutive or not, within a period of 6 consecutive days.

(2) The cases referred to in paragraph (1) are those where the days of incapacity for work in question are days of incapacity for work which result from regular weekly treatment by way of—

- (a) haemodialysis for chronic renal failure;
- (b) peritoneal dialysis for chronic renal failure;
- (c) plasmapheresis;
- (d) chemotherapy with cytotoxic drugs; or
- (e) radiotherapy.

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

**16.** Notwithstanding anything contained in regulation 7(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

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(2) Subsection (1A) of section 5 was inserted and subsection (2)(b) of that section was amended by the Social Security and Housing Benefits Act 1982 (c.24), section 48(5) and Schedule 4, paragraph 34(2) and (3).

(3) Section 17(1)(d) was substituted by the Social Security (No. 2) Act 1980, section 3(1) with effect from 14th September 1980.

of unemployment benefit), but subject to section 79(4), be treated as having been entitled to benefit for that day.

### **Disqualification for sickness or invalidity benefit**

**17.—(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 Secretary of State 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 Secretary of State or his 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 3(3).

(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**

**18.—(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 37½, 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**

**19.—(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).

(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.

### **Special provision for certain persons who have been employed abroad**

**20.—(1)** The following provisions of this regulation shall apply for the purposes of unemployment benefit and sickness benefit where a person—

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

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 120 of the Social Security (Contributions) Regulations 1979; 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 143 (reciprocity with countries outside the United Kingdom); or
  - (ii) Council Regulation No. 1408/71/EEC<sup>(4)</sup> (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 sub-paragraph (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 Great Britain 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 120 but for the provisions of an Order in Council made under section 143;
- (b) in relation to his case that Order does not provide for periods of insurance, employment or residence in the other country to which that 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 120 continued throughout the first 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 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 120 but for the provisions of either an Order in Council made under section 143 or Council Regulation No. 1408/71/EEC;
- (b) the employment by reference to which he would have been liable under the said regulation 120 continued throughout the first 52 weeks from the time that that liability would have commenced; and
- (c) that 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 Great Britain, 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 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 Great Britain 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.

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(4) (O.J.S.E. 1971(II), p. 416).

(7) Where a person to whom regulation 3 of the National Insurance (Residence and Persons Abroad) Regulations 1948<sup>(5)</sup> 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 1965 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 1965 to the full extent of his liability under the said regulation 3.

#### **Additional condition with respect to the receipt of unemployment benefit by seasonal workers**

**21.—**(1) In this regulation—

“employment” means employment as an employed earner and includes employment as a share-fisherman within the meaning of regulation 1(2) of the Social Security (Mariners' Benefits) Regulations 1975; 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 seven 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;

“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 additional condition shall apply to the receipt of unemployment benefit by a seasonal worker in respect of any day during his off-season, that either—

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

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(5) Relevant amending instruments are S.I. 1950/1946, 1958/1084, 1960/1210.

- (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.

### **Additional condition with respect to the receipt of unemployment benefit by students**

**22.**—(1) Persons following a course of full-time education at an establishment recognised by the Secretary of State as being, or as comparable to, a university, college or school shall be a prescribed category of persons in respect of whom, under section 20(3) (additional conditions with respect to receipt of benefit), an additional condition is imposed with respect to the receipt by them of unemployment benefit.

(2) Subject to the following paragraphs, the additional condition referred to in paragraph (1) shall be that any person to whom this regulation applies (hereafter referred to as a “student”) must have actually paid (except in a case to which paragraph (3) or paragraph (4) applies), in respect of either of the last two complete tax years immediately preceding the benefit year in which there falls the beginning of the period of interruption of employment which includes the day for which benefit is claimed (being a day in respect of which the additional condition applies), Class 1 contributions such that the earnings factor derived from them is not less than fifty times the lower earnings limit for the year in respect of which the contributions are paid.

(3) In any case where it arises that the earlier of the last two complete tax years referred to in paragraph (2) is the tax year ending in April 1975 the said additional condition shall apply so that the student must have actually paid—

- (a) Class 1 contributions in respect of the tax year which falls after the tax year ending in April 1975 as specified in paragraph (2); or
- (b) under the National Insurance Act 1965 not fewer than 26 contributions as an employed person in respect of any contribution weeks within the meaning of that Act.

(4) In any case where it arises that both the last two complete tax years referred to in paragraph (2) fall before the tax year ending in April 1976 the said additional condition shall apply so that the student must have actually paid contributions as specified in paragraph (3)(b).

(5) The said additional condition shall not apply except in respect of a day falling within the period from the beginning of the first term at the establishment referred to in paragraph (1) commencing after 31st August in any year to the end of the last term which finishes before 31st August in the next following year.

(6) Whenever a student has satisfied the said additional condition, he shall not be required again to satisfy that condition with respect to the receipt by him of unemployment benefit.

(7) In this regulation “benefit year” whether, under paragraph (2), (3) or (4), it falls in any particular case before, during or after the tax year ending April 1975 means a period beginning with the first Sunday in January in any calendar year and ending with the Saturday immediately preceding the first Sunday in January in the following calendar year.