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STATUTORY INSTRUMENTS

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**1987 No. 1967**

**The Income Support (General) Regulations 1987**

**PART II**

**CONDITIONS OF ENTITLEMENT**

**Temporary absence from Great Britain**

4.—(1) Where a claimant is entitled to income support for a period immediately preceding a period of temporary absence from Great Britain, his entitlement to income support shall continue during the first four weeks of that period of temporary absence only in the circumstances specified in paragraph (2).

(2) The circumstances in which a claimant's entitlement to income support is to continue during the first four weeks of a temporary absence from Great Britain are that—

- (a) the period of absence is unlikely to exceed 52 weeks; and
- (b) while absent from Great Britain, the claimant continues to satisfy the other conditions of entitlement to income support; and
- (c) any one of the following conditions applies—
  - (i) the claimant is not required to be available for employment under regulation 8(1) and Schedule 1 other than paragraph 5, 10, 18 to 20 of that Schedule (persons not required to be available for employment); or
  - (ii) he is not required to be available for employment under regulation 8(1) and paragraph 5 of Schedule 1 (incapacity for work) and his absence from Great Britain is for the sole purpose of receiving treatment from an appropriately qualified person for the incapacity by reason of which he is not required to be so available; or
  - (iii) he is in Northern Ireland; or
  - (iv) he is a member of a couple and he and his partner are both absent from Great Britain, and a premium referred to in paragraph 9, 10, 11 or 13 of Schedule 2 (applicable amounts) is applicable in respect of his partner <sup>F1</sup> or
  - (v) on the day on which the absence began he was, and had for the previous 28 weeks at least been, continuously incapable of work.]

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**Textual Amendments**

**F1** Reg. 4(2)(c)(v) and word added (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), 3

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**Commencement Information**

**I1** Reg. 4 in force at 11.4.1988, see reg. 1

*Status: Point in time view as at 29/08/1988.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, PART II. (See end of Document for details)*

### Persons treated as engaged in remunerative work

5.—(1) Subject to the following provisions of this regulation, for the purposes of section 20(3) (c) of the Act (conditions of entitlement to income support), remunerative work is work in which a person is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 24 hours a week being work for which payment is made or which is done in expectation of payment.

(2) The number of hours for which a person is engaged in work shall be determined—

- (a) where no recognisable cycle has been established in respect of a person's work, by reference to the number of hours or, where those hours are likely to fluctuate, the average of the hours, which he is expected to work in a week;
- (b) where the number of hours for which he is engaged fluctuate, by reference to the average of hours worked over—
  - (i) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
  - (ii) in any other case, the period of five weeks immediately before the date of claim or the date of review, or such other length of time as may, in the particular case, enable the person's average hours of work to be determined more accurately.

(3) A person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(4) A person who makes a claim and to whom or whose partner section 23 of the Act (trade disputes) applies [<sup>F2</sup>or applied] shall, for the period of seven days following the date on which the stoppage of work due to a trade dispute at his or his partner's place of work commenced or, if there is no stoppage, the date on which he or his partner first withdrew his labour in furtherance of a trade dispute, be treated as engaged in remunerative work.

(5) A person who was, or was treated as being, engaged in remunerative work and in respect of that work earnings to which regulation 35(1)(b) to (d) (earnings of employed earners) applies are payable shall be treated as being engaged in remunerative work for the period for which those earnings are taken into account in accordance with Part V.

#### Textual Amendments

**F2** Words in reg. 5(4) inserted (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), 4

#### Commencement Information

**I2** Reg. 5 in force at 11.4.1988, see [reg. 1](#)

### Persons not treated as engaged in remunerative work

6. A person shall not be treated as engaged in remunerative work if—

- (a) he is mentally or physically disabled and his earning capacity is, by reason of that disability, reduced to 75 per cent or less of what he would, but for that disability, be reasonably expected to earn;
- (b) he is engaged in child minding in his home;
- (c) he is engaged by a charity or voluntary body or is a volunteer where the only payment received by him or due to be paid to him, is a payment which is to be disregarded under

regulation 40(2) and paragraph 2 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings);

- (d) he is engaged on a scheme for which a training allowance is being paid; or
- (e) subject to regulation 5(4) (persons treated as engaged in remunerative work) he is a person to whom section 23 of the Act (trade disputes) applies [<sup>F3</sup>or in respect of whom section 20(3) of the Act (conditions of entitlement to income support) has effect as modified by section 23A(b) of the Act (effect of return to work)]; or
- (f) he is a person who is not required to be available for employment because regulation 8 and paragraph 4 of Schedule 1 (person caring for another) applies to him.

#### Textual Amendments

**F3** Words in reg. 6(e) inserted (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), 5

#### Commencement Information

**I3** Reg. 6 in force at 11.4.1988, see reg. 1

### Meaning of employment

7. For the purposes of section 20(3)(d) of the Act (conditions of entitlement to income support) only work in employed earner's employment within the meaning of the Social Security Act—

- (a) which the claimant can reasonably be expected to do;
- (b) for which payment is made or which is done in expectation of payment; and
- (c) for which he would normally be engaged for not less than 24 hours a week or, if he is mentally or physically disabled, such lesser number of hours as, having regard to his disability, he is usually capable of working,

shall be treated as employment.

#### Commencement Information

**I4** Reg. 7 in force at 11.4.1988, see reg. 1

### Persons not required to be available for employment

8.—(1) A person, other than one to whom regulation 10(1)(h) applies (circumstances in which a person is to be treated as available for employment), to whom any paragraph of Schedule 1 (persons not required to be available for employment) applies in any week shall not be required to be available for employment in that week.

(2) A person, other than one to whom regulation 10(1)(h) applies, to whom none of the provisions of Schedule 1 other than paragraph 5 applies, shall, where—

- (a) a medical practitioner to whom the question of that person's incapacity for work by reason of some disease or bodily or mental disablement has been referred under regulation 8 of the Social Security (Adjudication) Regulations 1986 <sup>F4</sup> (medical references) is of the opinion that the person is not so incapable; and

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- (b) that person's medical practitioner continues to supply evidence of his incapacity for work in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976 <sup>F5</sup> (evidence of incapacity for work); and
  - (c) that person has made and is pursuing an appeal against the determination of an adjudication officer that he is not so incapable; and
  - (d) that person, were he required to be available for employment, would not be treated as so available under regulation 9(1) (persons treated as available for employment),
- not be required to be available for employment pending the determination of his appeal.

[<sup>F6</sup>(3) A person, other than one to whom regulation 10(1)(h) applies, to whom none of the provisions of Schedule 1 applies, shall, for any period when—

- (a) he would, were he required to be available for employment, not be treated as so available under regulation 9(1); and
  - (b) the adjudication officer is satisfied that, unless income Support is paid, the claimant or a member of his family (if any) will suffer hardship,
- not be required to be available for employment.]

#### Textual Amendments

- F4** S.I. 1986/2218, to which there are no relevant amending instruments.
- F5** S.I. 1976/615; the relevant amending instruments are S.I. 1982/699 and 1987/409.
- F6** Reg. 8(3) added (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), 6

#### Commencement Information

- I5** Reg. 8 in force at 11.4.1988, see reg. 1

### Persons treated as available for employment

9.—(1) Except in a case to which regulation 10 (circumstances in which claimants are not to be treated as available for employment) applies, a claimant shall be treated as available for employment if, and only if—

- (a) he is available to be employed within the meaning of section 17(1)(a)(i) of the Social Security Act <sup>F7</sup> or Regulations made under it (requirement to be available to be employed for the purposes of unemployment benefit) in employment to which regulation 7 applies (meaning of employment); or
- (b) he is normally engaged for less than the number of hours prescribed in paragraph (c) of regulation 7 in respect of him in employment to which that regulation applies, and he is available, within the meaning of section 17(1)(a)(i) or Regulations made under it, for such further number of hours which would, in aggregate with the number of hours for which he is normally engaged, be not less than the number of hours prescribed in paragraph (c) of regulation 7 for his case; or
- (c) he satisfies the conditions in paragraph (2) and is attending—
  - (i) a course of education at an establishment recognised by the Secretary of State as being, or as comparable to, a school or college; or
  - (ii) a course of training or instruction analogous to a course for which a training allowance would be payable,

and, in either case, he is prepared to terminate the course immediately a suitable vacancy becomes available to him.

- (2) the conditions referred to in paragraph (1)(c) are that either—
- (a) the claimant was, for a continuous period of not less than three months falling immediately before the commencement date,—
    - (i) in receipt of a qualifying benefit; or
    - (ii) on a course of training or instruction organised by or on behalf of the [<sup>F8</sup>Training Commission] as part of the Youth Training Scheme; or
  - (b) during the period of six months falling immediately before the commencement date the claimant was—
    - (i) for a period, or periods in aggregate, of not less than three months in receipt of a qualifying benefit or on a course of training or instruction organised by or on behalf of the [<sup>F9</sup>Training Commission] as part of the Youth Training Scheme; and
    - (ii) after the period referred to in head (i) of this sub-paragraph or, in the case of periods in aggregate, after the first such period and throughout the remainder of the six months for which that head did not apply to him, engaged in appropriate work;
- and that the period of three months referred to in sub-paragraph (a) or, as the case may be, the period of six months referred to in sub-paragraph (b) fell wholly after the terminal date.

- (3) In this regulation—

“appropriate work” means remunerative work for the purpose of section 20(3)(c) of the Act (conditions of entitlement to income support) or other work the emoluments from which are such as to disentitle the person engaged in it from a qualifying benefit;

“commencement date” means the date on which the claimant first attended the course of education or course of training or instruction;

“course” means a course in the pursuit of which the time spent receiving instruction or tuition, undertaking supervised study, examination or practical work or taking part in any exercise, experiment or project for which provision is made in the curriculum of the course does not, subject to paragraph (4), exceed 21 hours a week;

“qualifying benefit” means unemployment benefit or sickness benefit under the Social Security Act <sup>F10</sup> or, in the case of a claimant who is required to be available for employment under section 20(3)(d) of the Act (conditions of entitlement to income support) or who is not so required under paragraph 5 of Schedule 1 (persons not required to be available by reason of sickness or incapacity), income support.

- (4) In calculating the time spent in pursuit of a course for the purpose of this regulation, 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 or place of instruction or training.

#### Textual Amendments

- F7** 1975 c. 14; section 17(1) was amended by the [Social Security \(No. 2\) Act 1980 \(c. 39\)](#), [sections 3\(1\)](#), [7\(6\)](#) and the Schedule.
- F8** Words in reg. 9(2)(a)(ii) substituted (28.5.1988) by [Employment Act 1988 \(1988 c. 19\)](#), [s. 24\(3\)](#), 34
- F9** Words in reg. 9(2)(b)(i) substituted (28.5.1988) by [Employment Act 1988 \(1988 c. 19\)](#), [s. 24\(3\)](#), 34
- F10** See sections 12(1)(a) and (b) and 14 of the [Social Security Act 1975 \(c. 14\)](#); section 12(1)(a) and (b) was amended by the [Social Security \(No. 2\) Act 1980 \(c. 39\)](#), [section 7\(6\)](#) and the [Health and Social Security Act 1984 \(c. 48\)](#), [Schedule 5](#), paragraph 2; section 14 was amended by the [Social Security Pensions Act 1975 \(c. 60\)](#), [sections 18\(1\)](#) and 65, Schedule 4, paragraph 39, the [Social Security Act](#)

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1979 (c. 18) and section 21(4), Schedule 3, paragraph 6, the Social Security and Housing Benefits Act 1982 (c. 24), sections 39(3) and 48, Schedule 4, paragraph 9; the Social Security (No. 2) Act 1980 (c. 39), section 7 and the Schedule and the Social Security Act 1986 (c. 50), section 86, Schedule 10, paragraph 83.

#### Commencement Information

**16** Reg. 9 in force at 11.4.1988, see reg. 1

### Circumstances in which claimants are not to be treated as available for employment

**10.**—(1) A claimant shall not be treated as available for employment if he is a person to whom any one of the following sub-paragraphs applies—

- (a) after a situation in any suitable employment has been properly notified to him as vacant or about to become vacant he has without good cause refused or failed to apply for that situation or refused to accept that situation when offered to him, and that situation is still vacant or open to application;
- (b) he has neglected to avail himself of a reasonable opportunity of suitable employment and that opportunity is still available to him;
- (c) he has failed to avail himself of a reasonable opportunity of short-term work which is available in the area in which he lives, and—
  - (i) he is aged 18 or over but under 45;
  - (ii) his partner, if any, is aged under 45;
  - (iii) there is no child or young person who is a member of his family;
  - (iv) his partner or, as the case may be, the claimant herself is not pregnant; and
  - (v) neither he nor his partner, if any, is mentally or physically disabled;
- (d) he has placed 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 he has no reasonable prospects of securing employment; but this sub-paragraph shall not apply where—
  - (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;
- (e) having failed to comply with a written notice given or sent to him by or on behalf of the Secretary of State or the [F11Training Commission] requesting him to report at a specified time, place and date to an officer of the Department of Health and Social Security, the Department of Employment, the [F11Training Commission] or a local education authority for an interview in connection with his prospects of employment, he fails without good cause to comply with the requirements of a further notice given or sent to him within 14 days of the date specified in the first notice by or on behalf of the Secretary of State or, as the case may be, the [F11Training Commission] and requesting him to report as aforesaid at a time, place and date specified in the further notice for the purpose of such an interview;

- (f) he has been disallowed unemployment benefit on the ground that he failed to claim in the manner prescribed by regulation 4 of the Social Security (Claims and Payments) Regulations 1987 <sup>F12</sup> (making a claim for benefit) by virtue of the fact that the form approved by the Secretary of State for the purpose of claiming was not duly completed so far as it related to his availability for employment; or
  - (g) he is a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975 <sup>F13</sup> who is not entitled to unemployment benefit under the Social Security Act because he has failed to satisfy the additional condition for receipt of that benefit in paragraph (5) or (8) of regulation 8 of those Regulations (that he performed no work as a sea-going or on-shore share fisherman and that he has not neglected to avail himself of a reasonable opportunity of employment as a fisherman);
  - (h) he is a student during the period of study other than one to whom paragraph 1, 2, 7 or 20 of Schedule 1 applies (persons not required to be available for employment) but in the case of paragraph 20 only where the student is a person to whom regulation 70(3)(a) applies (certain persons from abroad).
- (2) A determination that a claimant is not to be treated as available for employment—
- (a) under paragraph (1)(a), shall apply for a period not exceeding—
    - (i) the period during which the situation in question remains vacant; or
    - (ii) <sup>F14</sup>26] weeks,whichever is the shorter;
  - (b) under paragraph (1)(b), shall apply for a period not exceeding—
    - (i) the period during which the opportunity is still available to him; or
    - (ii) <sup>F14</sup>26] weeks,whichever is the shorter;
  - (c) under paragraph (1)(c)—
    - (i) shall not apply until the claimant has been given 14 days' notice in writing and that period has expired, and then
    - (ii) shall apply for a period not exceeding the period during which the opportunity is still available to him or, if shorter, the period of <sup>F14</sup>26] weeks;
  - (d) under paragraph (1)(d), shall apply for so long as the claimant has no reasonable prospect of employment as a consequence of the restrictions referred to in that paragraph;
  - (e) under paragraph (1)(e), shall apply on the day specified in the further notice and any subsequent day falling before the day on which the claimant reports to an officer of the Department of Health and Social Security, the Department of Employment, the <sup>F15</sup>Training Commission] or a local education authority at the place specified in the notice and there attends an interview in connection with his prospects of employment or before the day on which the Secretary of State or, as the case may be, the <sup>F15</sup>Training Commission] rescinds the further notice, whichever event first occurs;
  - (f) under paragraph (1)(f), shall apply for so long as the claimant fails to claim in the manner referred to in that paragraph;
  - (g) under paragraph (1)(g) or (h), shall apply for so long as that paragraph continues to apply to him.
- (3) In this regulation—

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- (a) employment shall not be deemed to be employment suitable in the case of any claimant if it is employment to which subsection (4) of section 20 of the Social Security Act (employment not to be deemed suitable for purposes of that section) applies;
- (b) “properly notified” means notified by an officer acting on behalf of the Secretary of State, or by the [<sup>F16</sup>Training Commission], a local education authority or some other recognised agency, or by or on behalf of an employer.

#### Textual Amendments

- F11** Words in reg. 10(1)(e) substituted (28.5.1988) by [Employment Act 1988 \(1988 c. 19\), s. 24\(3\)](#), 34
- F12** [S.I. 1987/1968](#).
- F13** [S.I. 1975/529](#).
- F14** Word in reg. 10(2) substituted (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\), regs. 1\(1\), 7](#)
- F15** Words in reg. 10(2)(e) substituted (28.5.1988) by [Employment Act 1988 \(1988 c. 19\), s. 24\(3\)](#), 34
- F16** Words in reg. 10(3)(b) substituted (28.5.1988) by [Employment Act 1988 \(1988 c. 19\), s. 24\(3\)](#), 34

#### Commencement Information

- I7** Reg. 10 in force at 11.4.1988, see reg. 1

### Registration for employment

**11.**—(1) Subject to paragraph (2), a claimant who—

- (a) is aged less than 18; and
- (b) is required to be available for employment for the purposes of section 20(3)(d)(i) of the Act (conditions of entitlement to income support);

must also be registered for employment in accordance with paragraph (3).

(2) A claimant other than one to whom regulation 10(1)(h) (circumstances in which claimants are not to be treated as available for employment) applies and who would, but for this paragraph, be required to be registered for employment in accordance with paragraph (3), shall not be required so to register for employment if—

- (a) a medical practitioner to whom the question of the claimant's incapacity for work by reason of some disease or bodily or mental disablement has been referred under regulation 8 of the Social Security (Adjudication) Regulations 1986 <sup>F17</sup> (medical references) is of the opinion that he is not so incapable; and
- (b) the claimant's medical practitioner continues to supply evidence of his incapacity for work in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976 <sup>F18</sup> (evidence of incapacity); and
- (c) the claimant has made and is pursuing an appeal against the determination of an adjudication officer that he is not so incapable.

(3) A claimant to whom paragraph (1) applies shall, except where the Secretary of State decides otherwise, be registered for employment by registering with the [<sup>F19</sup>Training Commission] or a local education authority.

#### Textual Amendments

- F17** [S.I. 1986/2218](#), to which there are no relevant amending instruments.
- F18** [S.I. 1976/615](#), the relevant amending instruments are [S.I. 1982/699](#) and [S.I. 1987/409](#).



**F19** Words in reg. 11(3) substituted (28.5.1988) by [Employment Act 1988 \(1988 c. 19\)](#), s. 24(3), 34

#### Commencement Information

**I8** Reg. 11 in force at 11.4.1988, see reg. 1

### Relevant Education

**12.** For the purposes of these Regulations a child or young person is to be treated as receiving relevant education if, and only if—

- (a) he is receiving full-time education not being advanced education for the purposes of section 2 of the Child Benefit Act 1975 <sup>F20</sup> (meaning of child); or
- (b) although he is not receiving such full-time education he is treated as a child for the purposes of that section of that Act.

F21 ....

#### Textual Amendments

**F20** 1975 c. 61 as amended by sections 4, 8 and 21 of, and Schedule 5, Part I to, the [Social Security Act 1980 \(c. 30\)](#) and by section 70 of the [Social Security Act 1986 \(c. 50\)](#).

**F21** Words in reg. 12 omitted (29.8.1988) by virtue of [The Income Support \(General\) Amendment No. 3 Regulations 1988 \(S.I. 1988/1228\)](#), regs. 1(1)(a), 3

#### Commencement Information

**I9** Reg. 12 in force at 11.4.1988, see reg. 1

### Circumstances in which persons in relevant education are to be entitled to income support

**13.—(1)** Notwithstanding that a person is to be treated as receiving relevant education under regulation 12 (relevant education) he shall, if paragraph (2) applies to him and he satisfies the other conditions of entitlement to income support, be entitled to income support.

(2) This paragraph applies to a young person who—

- (a) is the parent of a child for whom he is treated as responsible under regulation 15 (circumstances in which a person is to be treated as responsible or not responsible for another) and who is treated as a member of his household under regulation 16 (circumstances in which a person is to be treated as being or not being a member of the household); or
- (b) is severely mentally or physically handicapped and because of that he would be unlikely, even if he were available for employment, to obtain employment within the next 12 months; or
- (c) has no parent nor any person acting in the place of his parents; or
- (d) is living away from and is estranged from his parents or any person acting in place of his parents; or
- (e) is living away from his parents and any person 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—
  - (i) chronically sick or mentally or physically disabled; or
  - (ii) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or

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- (iii) prohibited from entering or re-entering Great Britain; or
  - (f) is attending a course of education to which regulation 9 (persons treated as available for employment) applies and satisfies the other conditions of that regulation; or
  - (g) has completed or terminated such a course and while attending that course satisfied the other conditions of that regulation; or
  - (h) he is a person to whom paragraph 16 of Schedule 1 (refugees not required to be available for employment) applies.
- (3) In this regulation—
- (a) any reference to a person acting in the place of a young person's parents includes—
    - (i) for the purposes of paragraph (2)(c) and (d), a reference to a local authority or voluntary organisation where the young person is in their care under a relevant enactment, or to a person with whom the young person is boarded out by a local authority or voluntary organisation whether or not any payment is made by them; and
    - (ii) for the purposes of paragraph (2)(e), any person with whom the young person is so boarded out;
  - (b) “chronically sick or mentally or physically disabled” means, in relation to a person to whom that expression refers, a person—
    - (i) in respect of whom the condition specified in paragraph 12(1) of Schedule 2 (additional condition for the higher pensioner and disability premiums) is satisfied; or
    - (ii) in respect of whom an amount under article 26 of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983 <sup>F22</sup> (provision of expenses in respect of appropriate aids for disabled living) is payable in respect of the cost of providing a vehicle, or maintaining a vehicle to a disabled person; or
    - (iii) who is substantially and permanently disabled.

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#### **Textual Amendments**

**F22** [S.I. 1983/883](#).

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#### **Commencement Information**

**I10** Reg. 13 in force at 11.4.1988, see [reg. 1](#)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, PART II.