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STATUTORY RULES OF NORTHERN IRELAND

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**1992 No. 78**

**The Disability Working Allowance (General)  
Regulations (Northern Ireland) 1992**

**PART III**

**PRESENCE IN NORTHERN IRELAND AND REMUNERATIVE WORK**

**Circumstances in which a person is treated as being or as not being in Northern Ireland**

- 5.—(1) A person shall be treated as being in Northern Ireland if, on the date of claim—
- (a) he is present and ordinarily resident in Northern Ireland;
  - (b) his partner, if he has one, is ordinarily resident in the United Kingdom;
  - (c) his earnings derive at least in part from remunerative work in the United Kingdom or the Republic of Ireland; and
  - (d) his earnings do not wholly derive from remunerative work outside the United Kingdom or the Republic of Ireland nor do the earnings of his partner, if he has one.

(2) A person shall be treated as not being in Northern Ireland during any period for which he, or his partner, is entitled to be paid disability working allowance or family credit under the law of Great Britain.

**Remunerative work**

6.—(1) Subject to paragraph (3), for the purposes of Article 21(6A)(a) of the Order a person shall be treated as engaged and normally engaged in remunerative work where—

- (a) the work he undertakes is for not less than 16 hours per week;
- (b) the work is done for payment or in expectation of payment; and
- (c) he is employed at the date of claim and satisfies the requirements of paragraph (5).

(2) A person who does not satisfy all the requirements of paragraph (1) shall not be treated as engaged and normally engaged in remunerative work.

(3) A person who otherwise satisfies all the requirements of paragraph (1) shall not be treated as engaged and normally engaged in remunerative work if he is engaged by a charitable 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 27(2) and paragraph 2 of Schedule 3 (sums to be disregarded in the calculation of income other than earnings).

(4) In determining for the purposes of paragraph (1)(a) whether a person has undertaken work of not less than 16 hours per week—

- (a) there shall be included in the calculation any time allowed—
  - (i) for meals or refreshment, or

- (ii) for visits to a hospital, clinic or other establishment for the purpose only of treating or monitoring the person's disability,  
but only where the person is, or expects to be, paid earnings in respect of that time; and
- (b) where at the date of claim the claimant has within the previous 5 weeks—
  - (i) started a new job,
  - (ii) resumed work after a break of at least 13 weeks, or
  - (iii) changed his hours,the hours worked shall be calculated by reference to the number of hours, or where these are expected to fluctuate, the average number of hours, which he is expected to work in a week; or
- (c) where sub-paragraph (b) does not apply, and
  - (i) a recognised cycle of working has been established at the date of claim, the hours worked shall be calculated by reference to the average number of hours worked in a week over the period of one complete cycle (including where the cycle involves periods in which the person does not work, those periods, but disregarding any other absences), or
  - (ii) no recognised cycle of working has been established at that date, the hours worked shall be calculated by reference to the average number of hours worked over the 5 weeks immediately preceding the week in which the claim is made, or such other length of time preceding that week as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.
- (5) Subject to paragraph (6), the requirements of this paragraph are that the person—
  - (a) worked not less than 16 hours in—
    - (i) the week of claim, or
    - (ii) either of the 2 weeks immediately preceding the week of claim;
  - (b) is expected by his employer to work not less than 16 hours in the week following the week of claim; or
  - (c) cannot satisfy the requirements of sub-paragraph (a) or (b) at the date of claim because he is or will be absent from work by reason of a recognised, customary or other holiday but he is expected by his employer to work not less than 16 hours in the week following his return to work,

and for the purposes of calculating the number of hours worked, paragraph (4)(a) shall apply to this paragraph as it applies to paragraph (1)(a).

- (6) For the purposes of paragraph (5), work which a person does only qualifies if—
  - (a) it is the work which he normally does; and
  - (b) it is likely to last for a period of 5 weeks or more beginning with the week in which the claim is made.

### **Income-related benefits**

7. For the purposes of Article 21(6E) of the Order the prescribed circumstances are that the person's weekly applicable amount included a higher pensioner or disability premium in respect of him, determined—

- (a) in the case of income support, in accordance with paragraphs 10(1)(b) or 11 and 12 of Part III of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987(1) (applicable amounts);
- (b) in the case of housing benefit, in accordance with paragraphs 10(1)(b) or 11 and 12 of Part III of Schedule 2 to the Housing Benefit (General) Regulations (Northern Ireland) 1987(2) (applicable amounts); or
- (c) in accordance with any provision equivalent to one of those specified in paragraphs (a) and (b) having effect in Great Britain.

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(1) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 Nos. 146 and 431, S.R. 1989 No. 395, S.R. 1990 No. 387 and S.R. 1992 No. 6

(2) S.R. 1987 No. 461; relevant amending regulations are S.R. 1988 No. 424, S.R. 1990 No. 136 and S.R. 1992 No. 6