STATUTORY RULES OF NORTHERN IRELAND

1996 No. 93

HOUSING; RATES; SOCIAL SECURITY

The Income-Related Benefits (Miscellaneous Amendments) Regulations (Northern Ireland) 1996

Made - - - - 14th March 1996

Coming into operation in accordance with regulation 1

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1), 130(1), 131(1) and (6), 132(2), (3) and (4)(*a*) and (*b*) and 133(2)(*h*) and (*i*) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and section 5(1)(*b*) of the Social Security Administration (Northern Ireland) Act 1992(**2**) and of all other powers enabling it in that behalf, with the consent of the Department of the Environment for Northern Ireland(**3**) in so far as relates to regulations 3, 4, 5, 7(*b*), 8(1) and (2)(*b*), 9(1) and (2)(*b*), 10(2) and 11(2) of these Regulations and after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it(**4**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income-Related Benefits (Miscellaneous Amendments) Regulations (Northern Ireland) 1996 and this regulation shall come into operation on 1st April 1996.

(2) In so far as these Regulations amend provisions relating to income support they shall come into operation on 8th April 1996 and, in relation to any particular claimant for that benefit, shall have effect from the beginning of the first benefit week to commence for that claimant on or after that date.

(3) In paragraph (2) the expressions "claimant" and "benefit week" have the same meaning as in the Income Support Regulations.

(4) In so far as these Regulations amend provisions relating to housing benefit they shall come into operation on 1st April 1996.

(**1**) 1992 c. 7
(**2**) 1992 c. 8
(**3**) *See* section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8))
(**4**) *See* section 150(1)(*b*) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

(5) In so far as these Regulations amend provisions relating to family credit or disability working allowance, they shall come into operation on 9th April 1996 and, in relation to any particular claimant for either of those benefits, they shall have effect—

(a) where a claimant has an award of family credit or disability working allowance which is current on 9th April 1996, on the day following the expiration of that award, or

(b) in any other case, on 9th April 1996.

(6) In these Regulations—

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**5**);

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**6**);

"the Family Credit Regulations" means the Family Credit (General) Regulations (Northern Ireland) 1987(**7**);

"the Disability Working Allowance Regulations" means the Disability Working Allowance (General) Regulations (Northern Ireland) 1992(**8**).

(7) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Income support: Preserved rights

2. In regulation 19 of the Income Support Regulations (applicable amounts for persons in residential care and nursing homes) after paragraph (1ZO)(**10**) there shall be inserted—

"(1ZP) A person who acquired a preserved right under paragraph (1ZB) or (1ZC)(**11**) shall cease to have that right if—

(a) he resides in a home which falls within sub-paragraph (*b*) of the definition of "residential care home" in paragraph (2) (homes run by the Abbeyfield Society) and which is not registered under the statutory provision referred to in sub-paragraph (*a*) of that definition;

(b) he requires personal care, including assistance with bodily functions, and that residential care home does not provide such care, and

(c) he, or a person on his behalf, contracts with another person or body to provide that care,

but that preserved right shall revive if any of the conditions specified in sub-paragraphs (*a*) to (*c*) ceases to apply and that person would, but for this provision, have retained that right.".

Housing benefit: Severe disability premium

3.—(1) Schedule 2 to the Housing Benefit Regulations (applicable amounts) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph 13 (severe disability premium) after sub-paragraph (3) there shall be inserted—

(**5**) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 No. 431, S.R. 1990 Nos. 131, 137, 297 and 305, S.R. 1993 Nos. 149 and 373 and S.R. 1994 No. 327
(**6**) S.R. 1987 No. 461; relevant amending rules are S.R. 1988 No. 424, S.R. 1990 Nos. 136, 137, 297, 305, 345 and 442, S.R. 1993 No. 149, S.R. 1994 No. 335 and S.R. 1995 Nos. 84, 101 and 223
(**7**) S.R. 1987 No. 463; relevant amending regulations are S.R. 1990 Nos. 138, 297 and 387, S.R. 1992 No. 148, S.R. 1994 No. 327 and S.R. 1995 No. 86
(**8**) S.R. 1992 No. 78; relevant amending regulations are S.R. 1995 No. 86
(**9**) 1954 c. 33 (N.I.)
(**10**) Paragraph (1ZO) was inserted by S.R. 1994 No. 327
(**11**) Paragraphs (1ZB) and (1ZC) were inserted by S.R. 1993 No. 149

"(3A) For the purposes of sub-paragraph (2)(*b*) a person shall be treated as being in receipt of—

(a) attendance allowance, or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Contributions and Benefits Act, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;

(b) invalid care allowance if he would, but for the person for whom he was caring being a patient for a period exceeding 28 days, be so in receipt.".

(3) In the column headed "Premium" in paragraph 15(5)(*b*)(i)(**12**) (amounts of premiums specified in Part III) at the end there shall be added—

"or if he or any partner satisfies that condition only by virtue of paragraph 13(3A)".

Housing benefit: Disregard of family credit and disability working allowance

4. In Schedule 4 to the Housing Benefit Regulations (sums to be disregarded in the calculation of income other than earnings) for paragraphs 60 and 61(**13**) there shall be substituted—

"**60.** Where the claimant is entitled to the allowance under regulation 51(1)(*bb*) of the Disability Working Allowance (General) Regulations (Northern Ireland) 1992(**14**) (which applies in respect of a person who works for not less than 30 hours a week), any amount of disability working allowance up to the amount specified in column (2) against paragraph 2A(**15**) of Schedule 5 (determination of appropriate maximum disability working allowance: claimant, child and young person allowance) to those Regulations.

61. Where the claimant is entitled to the credit under regulation 46(1)(*aa*) of the Family Credit (General) Regulations (Northern Ireland) 1987(**16**) (which applies in respect of a person who works for not less than 30 hours a week), any amount of family credit up to the amount specified in column (2) against paragraph 1A(**17**) of Schedule 4 (determination of appropriate maximum family credit: adult, child and young person credits) to those Regulations.".

Housing benefit: Backdated claims

5. In regulation 72(14)(**18**) of the Housing Benefit Regulations (time and manner in which claims are to be made) for the words from "any period before" to the end there shall be substituted—

"a past period (a "claim for backdating") and, from, and including, a day in that period up to the date of the claim for backdating, he had continuous good cause for his failure to make a claim, his claim in respect of that period shall be treated as made on—

(a) the first day from which he had continuous good cause, or

(b) the day 52 weeks before the date of the claim for backdating,

whichever fell later.".

(**12**) Relevant amending rule is S.R. 1995 No. 84
(**13**) Paragraphs 60 and 61 were added by regulation 2 of S.R. 1995 No. 223
(**14**) S.R. 1992 No. 78; regulation 51(1)(*bb*) was inserted by regulation 4(3) of S.R. 1995 No. 223
(**15**) Paragraph 2A was inserted by regulation 4(4) of S.R. 1995 No. 223
(**16**) S.R. 1987 No. 463; regulation 46(1)(*aa*) was inserted by regulation 3(3) of S.R. 1995 No. 223
(**17**) Paragraph 1A was inserted by regulation 3(4) of S.R. 1995 No. 223
(**18**) Relevant amending regulations are S.R. 1988 No. 424

Family credit: Normal weekly income of employed earners

6. In regulation 14(2) of the Family Credit Regulations (normal weekly earnings of employed earners) for sub-paragraph (*aa*)(**19**) there shall be substituted—

"(aa) a fortnight—

(i) except where head (ii) applies, a period of 3 consecutive fortnights immediately preceding the week of claim, or

(ii) where the adjudication officer has insufficient information for the claimant's normal weekly earnings to be determined in accordance with head (i), a period of 3 consecutive fortnights ending with the fortnight before the week immediately preceding the week of claim;".

Income-related benefits: Disregard of charitable or voluntary payments

7. In the following provisions (which provide for certain charitable or voluntary payments to be disregarded in the calculation of income other than earnings, the amount of such payments to be disregarded and special arrangements where the claimant has other income, apart from such payments, to be disregarded) for "£10" there shall be substituted "£20"—

(a) regulation 65 of, and paragraphs 15(1)(**20**) and 36(**21**) of Schedule 9 to, the Income Support Regulations;

(b) regulation 56(**22**) of, and paragraphs 15(1)(**23**) and 35(**24**) of Schedule 4 to, the Housing Benefit Regulations;

(c) regulation 41 of, and paragraphs 13(1)(**25**) and 29(**26**) of Schedule 2 to, the Family Credit Regulations;

(d) regulation 45 of, and paragraphs 12(1) and 29 of Schedule 3 to, the Disability Working Allowance Regulations.

Income-related benefits: Treatment of student loans

8.—(1) In each of the provisions specified in paragraph (2) (which provide for student loans to be treated as income) for paragraph (3) there shall be substituted—

"(3) For the purposes of this regulation a student shall be treated as possessing the maximum amount of any loan referred to in paragraph (1) which he will be able to acquire in respect of an academic year by taking reasonable steps to do so.".

(2) The provisions referred to in paragraph (1) are—

(a) regulation 66A(**27**) of the Income Support Regulations;

(b) regulation 57A(**28**) of the Housing Benefit Regulations;

(c) regulation 42A(**29**) of the Family Credit Regulations;

(d) regulation 47 of the Disability Working Allowance Regulations.

(**19**) Regulation 14 was substituted by regulation 4 of S.R. 1992 No. 148 and paragraph (2)(*aa*) was inserted by regulation 3(3)(*b*) of S.R. 1994 No. 327
(**20**) Paragraph 15(1) was substituted by regulation 4(22)(*b*)(i) of S.R. 1993 No. 373
(**21**) Paragraph 36 was amended by S.R. 1990 Nos. 131 and 305
(**22**) Relevant amending regulations are S.R. 1990 No. 136
(**23**) Paragraph 15(1) was substituted by regulation 11(*a*) of S.R. 1990 No. 345
(**24**) Paragraph 35 was amended by S.R. 1990 Nos. 136 and 305
(**25**) Paragraph 13(1) was substituted by regulation 14(*a*) of S.R. 1990 No. 138
(**26**) Paragraph 29 was amended by S.R. 1990 Nos. 138 and 387
(**27**) Regulation 66A was inserted by regulation 4(7) of S.R. 1990 No. 297
(**28**) Regulation 57A was inserted by regulation 3(9) of S.R. 1990 No. 297
(**29**) Regulation 42A was inserted by regulation 2(5) of S.R. 1990 No. 297

Income-related benefits: Disregard of contribution to a student grant

9.—(1) In each of the provisions specified in paragraph (2) (disregard of contribution) for the words from "the income", where they first appear, to the end there shall be substituted—

", for the purposes of assessing a contribution to the student's grant, the other partner's income has been taken into account, an amount equal to that contribution shall be disregarded for the purposes of assessing that other partner's income.".

(2) The provisions referred to in paragraph (1) are—

(a) regulation 67 of the Income Support Regulations;

(b) regulation 58(1) of the Housing Benefit Regulations;

(c) regulation 43 of the Family Credit Regulations;

(d) regulation 48 of the Disability Working Allowance Regulations.

Income-related benefits: Disregard of payments to holders of the Victoria or George Cross

10.—(1) In Schedule 10 to the Income Support Regulations (capital to be disregarded) after paragraph 43(**30**) there shall be added the following paragraph—

"**44.** Any payment to the claimant as holder of the Victoria Cross or George Cross.".

(2) In Schedule 5 to the Housing Benefit Regulations and Schedule 4 to the Disability Working Allowance Regulations (capital to be disregarded) after paragraph 45(**31**) there shall be added the following paragraph—

"**46.** Any payment to the claimant as holder of the Victoria Cross or George Cross.".

(3) In Schedule 3 to the Family Credit Regulations (capital to be disregarded) after paragraph 46(**32**) there shall be added the following paragraph—

"**47.** Any payment to the claimant as holder of the Victoria Cross or George Cross.".

Income support and housing benefit: Capital limits for persons in residential and other types of accommodation

11.—(1) In the Income Support Regulations—

(a) for regulation 45(**33**) (capital limit) there shall be substituted the following regulation—

"**45.** For the purposes of section 130(1) of the Contributions and Benefits Act as it applies to income support (no entitlement to benefit if capital exceeds prescribed amount)—

(a) except where paragraph (*b*) applies, the prescribed amount is £8,000;

(b) where the circumstances prescribed in regulation 53(1B) apply in the claimant's case, the prescribed amount is £16,000.";

(b) in regulation 53(**34**) (calculation of tariff income from capital)—

(i) in paragraph (1) at the beginning there shall be inserted "Except where the circumstances prescribed in paragraph (1B) apply to the claimant,";

(ii) after paragraph (1) there shall be inserted—

(**30**) Paragraph 43 was added by regulation 2(11)(*b*) of S.R. 1994 No. 327
(**31**) Paragraph 45 in each instance was added by regulation 13(*b*) of S.R. 1994 No. 335 and regulation 5(9) of S.R. 1995 No. 86 respectively
(**32**) Paragraph 46 was added by regulation 4(8) of S.R. 1995 No. 86
(**33**) Relevant amending regulations are S.R. 1990 No. 137
(**34**) Relevant amending regulations are S.R. 1988 No. 431 and S.R. 1990 No. 137