1995 No. 86

SOCIAL SECURITY

The Income-Related Benefits (Miscellaneous Amendments) Regulations (Northern Ireland) 1995

Made . . . . . 10th March 1995

Coming into operation in accordance with regulation 1(1)

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1)(*a*), (*b*) and (*c*), 127(5), 128(4) and (8), 131(1), 132(3) and (4)(*a*) and (*b*) and 133(2)(*c*) and (*d*)(i) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**) and of all other powers enabling it in that behalf, 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) 1995 and shall come into operation as follows—

(*a*) for the purposes of this regulation and regulations 2 and 3, on 10th April 1995, and

(*b*) for the purposes of regulations 4 and 5, on 11th April 1995.

(2) Regulations 2 and 3 shall have effect in relation to any particular claimant at the beginning of the first benefit week to commence for that claimant on or after 10th April 1995 which applies in his case.

(3) Regulations 4 and 5 shall have effect in relation to any particular claimant—

(*a*) except where sub-paragraph (*b*) applies, on 11th April 1995, and

(*b*) where a claimant has an award of disability working allowance or family credit which is current on 10th April 1995, on the day following the expiration of that award.

(4) In these Regulations—

"the Disability Working Allowance Regulations" means the Disability Working Allowance (General) Regulations (Northern Ireland) 1992(**b**);

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

(**a**) 1992 c. 7

(**b**) S.R. 1992 No. 78; relevant amending regulations are S.R. 1992 No. 403 and S.R. 1994 Nos. 77, 274 and 327

(**c**) S.R. 1987 No. 463; relevant amending regulations are S.R. 1988 No. 131, S.R. 1990 No. 138, S.R. 1992 Nos. 18 and 148 and S.R. 1994 Nos. 77, 274 and 327

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**a**).

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

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

Amendment of the Income Support Regulations

2.—(1) The Income Support Regulations shall be amended in accordance with paragraphs (2) to (12).

(2) In regulation 2(1) (interpretation) after the definition of "unemployment benefit"(**c**) there shall be inserted the following definition—

" "voluntary organisation" means any association carrying on or proposing to carry on any activities otherwise than for the purpose of gain by the association or by individual members of the association.".

(3) In regulation 3(2)(*c*) (definition of non-dependant)(**d**) for "voluntary body" there shall be substituted "voluntary organisation".

(4) In regulation 5 (persons treated as engaged in remunerative work)—

(*a*) in paragraph (2) at the beginning there shall be inserted "Subject to paragraph (3B),";

(*b*) after paragraph (3A)(**e**) there shall be inserted the following paragraph—

"(3B) Where for the purpose of paragraph (2)(*b*)(i), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work shall be disregarded in establishing the average hours for which he is engaged in work.".

(5) In regulation 6(*c*) (persons not treated as engaged in remunerative work)(**f**) the words from "being any association" to "of the association" shall be omitted.

(6) In regulation 21 (special cases)—

(*a*) in paragraph (3) for the definition of "prisoner" there shall be substituted the following definition—

(**a**) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 Nos. 205, 318 and 431, S.R. 1989 No. 365, S.R. 1990 No. 33, S.R. 1991 Nos. 204 and 474, S.R. 1992 Nos. 6 and 201, S.R. 1993 Nos. 149, 311 and 373 and S.R. 1994 Nos. 65, 77, 138 and 327

(**b**) 1954 c. 33 (N.I.)

(**c**) Definition inserted by regulation 2 of S.R. 1989 No. 365

(**d**) Regulation 3(2) was substituted by regulation 2(*b*) of S.R. 1991 No. 474 and further amended by S.R. 1994 No. 65

(**e**) Paragraph (3A) was inserted by regulation 4(3)(*a*) of S.R. 1993 No. 373

(**f**) Relevant amending regulations are S.R. 1988 No. 318 and S.R. 1994 No. 327

" "prisoner" means a person who—

(*a*) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or

(*b*) is on temporary release in accordance with the provisions of the Prison Act (Northern Ireland) 1953(**a**),

other than a person whose detention is under the provisions of the Mental Health (Northern Ireland) Order 1986(**b**);";

(*b*) in paragraph (4)(**c**) sub-paragraph (*a*) shall be omitted.

(7) In regulation 42(6) (notional income)—

(*a*) for "voluntary body" there shall be substituted "voluntary organisation";

(*b*) after "satisfied" there shall be inserted "in any of those cases".

(8) In regulation 72(1)(*a*) (assessment of income and capital in urgent cases)(**d**) for ", 42 or 44" there shall be substituted "or 42".

(9) In Schedule 2 (applicable amounts) in paragraph 12(1)(*c*)(ii) (additional condition for the higher pensioner and disability premiums)(**e**) for "section 82(6)(*b*) of the principal Act" there shall be substituted "section 113(2) of the Contributions and Benefits Act or otherwise abated as a consequence of the claimant or his partner becoming a patient within the meaning of regulation 21(3) (special cases)".

(10) In Schedule 3 (housing costs)—

(*a*) in paragraph 5A (other housing costs which are not met)(**f**)—

(i) in sub-paragraph (8) at the beginning there shall be inserted "Subject to sub-paragraph (8A),";

(ii) after sub-paragraph (8) there shall be inserted the following sub-paragraph—

"(8A) For the purposes of sub-paragraph (8), a person shall not cease to be a disabled person on account of his being disqualified for receiving benefit or treated as capable of work by virtue of the operation of section 167E of the Contributions and Benefits Act (incapacity for work, disqualification etc)(**g**).";

(iii) in sub-paragraph (10)(*b*) at the end there shall be added "and did not include an amount determined by reference to paragraph 1(*a*), (*aa*)(**h**) or (*b*)";

(**a**) 1953 c. 18 (N.I.)
(**b**) S.I. 1986/595 (N.I. 4)
(**c**) Paragraph (4) was substituted by paragraph 1(4)(*b*) of Schedule 1 to S.R. 1993 No. 149
(**d**) Regulation 72(1)(*a*) was substituted by regulation 6 of S.R. 1988 No. 205 and further amended by S.R. 1988 No. 431, S.R. 1990 No. 33, S.R. 1991 No. 204, S.R. 1992 No. 201 and S.R. 1993 Nos. 195 and 233
(**e**) Paragraph 12(1)(*c*) was substituted by regulation 10(4)(*b*)(ii) of S.R. 1992 No. 6 and further amended by S.R. 1994 No. 327
(**f**) Paragraph 5A was inserted by regulation 2 of S.R. 1994 No. 138
(**g**) Section 167E was inserted by Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))
(**h**) Paragraph 1(*aa*) was inserted by regulation 16(*a*) of S.R. 1988 No. 431

(*b*) in paragraph 7(6C) (interest on loans to acquire an interest in the dwelling occupied as the home)(**a**) after head (*b*) there shall be added—

"(*c*) after 9th April 1995 £100,000.";

(*c*) in paragraph 7B (disabled persons)(**b**) after sub-paragraph (2) there shall be added the following sub-paragraph—

"(3) For the purposes of sub-paragraph (1), a person shall not cease to be a disabled person on account of his being disqualified for receiving benefit or treated as capable of work by virtue of the operation of section 167E of the Contributions and Benefits Act (incapacity for work, disqualification etc).".

(11) In Schedule 7 (applicable amounts in special cases) in paragraph 17(*b*) (claimants entitled to the disability premium for a past period)—

(*a*) for "paragraph 6(4) of Schedule 7 to those regulations (commencement of entitlement to income support)" there shall be substituted "regulation 6(3) of those regulations (date of claim)";

(*b*) for "ending with the day" there shall be substituted "ending with the day before the day".

(12) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—

(*a*) in paragraph 2 for "voluntary body" there shall be substituted "voluntary organisation";

(*b*) for paragraph 18(**c**) there shall be substituted the following paragraph—

"18. Any payment made to the claimant by a person who normally resides with the claimant, which is a contribution towards that person's living and accommodation costs, except where that person is residing with the claimant in circumstances to which paragraph 19 or 20 refers.";

(*c*) in paragraph 19(**d**) for "a person other than one to whom paragraph 18 or 20 refers," there shall be substituted "another person".

Savings

3.—(1) In the case of a claimant who was entitled to income support for the benefit week which included 9th April 1995 then, but subject to paragraph (3), in respect of each day after that date on which the claimant's entitlement to income support continues, Schedule 3 to the Income Support Regulations shall continue to have effect as though regulation 2(10)(*b*) of these Regulations had not been made.

(2) Paragraph 7(9)(*c*) to (*f*) of Schedule 3 to the Income Support Regulations(**e**) shall apply to paragraph (1) as it applies to paragraph 7(1) of

(**a**) Paragraph 7(6C) was inserted by regulation 3(2)(*b*) of S.R. 1993 No. 311
(**b**) Paragraph 7B was inserted by regulation 3(3) of S.R. 1993 No. 311
(**c**) Paragraph 18 was amended by regulation 20(*a*) of S.R. 1988 No. 431
(**d**) Relevant amending rules are S.R. 1992 No. 18 and S.R. 1994 No. 77
(**e**) Relevant amending regulations are S.R. 1988 No. 318 and S.R. 1989 No. 395

Schedule 3 to the Income Support Regulations, but with the modification that for "in receipt of income support", wherever those words appear there were substituted "entitled to income support" and that "Subject to sub-paragraphs (10) and (11)" were omitted.

(3) In its application to any loan taken out or increased after 9th April 1995, Schedule 3 to the Income Support Regulations shall have effect as amended by regulation 2(10)(*b*) of these Regulations.

Amendment of the Family Credit Regulations

4.—(1) The Family Credit Regulations shall be amended in accordance with paragraphs (2) to (8).

(2) In regulation 2(1) (interpretation) after the definition of "training allowance" there shall be inserted the following definition—

" "voluntary organisation" means any association carrying on or proposing to carry on any activities otherwise than for the purpose of gain by the association or by individual members of the association;".

(3) In regulation 4 (remunerative work)—

(*a*) in paragraph (4) at the beginning there shall be inserted "Subject to paragraph (4A),";

(*b*) after paragraph (4) there shall be inserted the following paragraph—

"(4A) Where for the purpose of paragraph (4)(*c*)(i), a person's recognised cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work shall be disregarded in establishing the average hours for which he is engaged in work.";

(*c*) paragraph (8)(**a**) shall be omitted.

(4) In regulation 13A(2) (treatment of child care charges)(**b**)—

(*a*) for the definition of "relevant child care charges" there shall be substituted the following definition—

" "relevant child care charges" means the charges paid by the claimant for care provided for any child of the claimant's family who is under the age of 11 years, other than charges paid in respect of the child's compulsory education or charges paid by a claimant to a partner or by a partner to a claimant in respect of any child for whom either or any of them is responsible in accordance with regulation 7 (circumstances in which a person is to be treated as responsible or not responsible for another), where the care is provided—

(**a**) Paragraph (8) was added by regulation 3(2)(*b*) of S.R. 1994 No. 327
(**b**) Regulation 13A was inserted by regulation 3(4) of S.R. 1994 No. 274