1994 No. 274

SOCIAL SECURITY

The Income-Related Benefits (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 1994

Made . . . . . 19th July 1994

Coming into operation in accordance with regulation 1(1) and (2)

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1)(*b*), (*c*) and (*d*), 132(3) and (4)(*b*) and 171(5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**) and of all other powers enabling it in that behalf, with the consent of the Department of the Environment for Northern Ireland(**b**) so far as it relates to matters with regard to which consent is required, and after agreement by the Social Security Advisory Committee that proposals to make these regulations should not be referred to it(**c**), hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Income-Related Benefits (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 1994 and shall come into operation on 3rd October 1994.

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

(*a*) except where sub-paragraph (*b*) applies, on 4th October 1994; or

(*b*) where that claimant has an award of disability working allowance or family credit which is current on 3rd October 1994, on the day following the expiration of that award.

(3) For the purposes of paragraph (2) as it has effect with respect to disability working allowance or family credit, ''claimant'' means a person claiming the benefit concerned.

(4) The Interpretation Act (Northern Ireland) 1954(**d**) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

(**a**) 1992 c. 7

(**b**) *See* section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8))

(**c**) *See* section 150(1)(*b*) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

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

Amendment of the Housing Benefit (General) Regulations

2.—(1) The Housing Benefit (General) Regulations (Northern Ireland) 1987(**a**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 21(1) (calculation of income on a weekly basis)—

(*a*) at the end of sub-paragraph (*a*) ''and'' shall be omitted;

(*b*) at the end of sub-paragraph (*b*) there shall be added ''and'' and the following sub-paragraph;

''(*c*) by then deducting any relevant child care charges to which regulation 21A (treatment of child care charges) applies from any earnings which form part of the average weekly income, up to a maximum deduction in respect of the claimant's family of £40 per week.''.

(3) After regulation 21 there shall be inserted the following regulation—

''*Treatment of child care charges*

21A.—(1) This regulation applies where a claimant is incurring relevant child care charges and—

(*a*) is a lone parent and is engaged in remunerative work;

(*b*) is a member of a couple both of whom are engaged in remunerative work; or

(*c*) is a member of a couple where one member is engaged in remunerative work and the other member is incapacitated.

(2) In this regulation—

''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, where the care is provided on premises registered under section 11 of the Children and Young Persons Act (Northern Ireland) 1968 (registration of premises of child-minders)(**b**) and shall be calculated on a weekly basis in accordance with paragraph (3).

(3) Relevant child care charges shall be estimated over such period, not exceeding a year, as is appropriate in order that the average weekly charge over the benefit period may be estimated accurately having regard to information as to the amount of that charge provided by the child-minder or person providing the care.

(4) For the purposes of paragraph (1)(*c*) the other member of a couple is incapacitated where—

(*a*) the claimant's applicable amount includes—

(i) a disability premium; or

(ii) a higher pensioner premium by virtue of the satisfaction of paragraph 10(2)(*b*) of Schedule 2,

on account of the other member's incapacity;

(**a**) S.R. 1987 No. 461; relevant amending regulations are S.R. 1991 No. 337

(**b**) 1968 c. 34 (N.I.)

(*b*) there is payable in respect of him one or more of the following pensions or allowances—

(i) invalidity pension under section 33, 40 or 41 of the Contributions and Benefits Act;

(ii) attendance allowance under section 64 of that Act;

(iii) severe disablement allowance under section 68 of that Act;

(iv) disability living allowance under section 71 of that Act;

(v) increase of disablement pension under section 104 of that Act;

(vi) a pension increase under a war pension scheme or an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under head (ii), (iv) or (v);

(*c*) a pension or allowance to which head (ii), (iv), (v) or (vi) of sub-paragraph (*b*) refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient within the meaning of regulation 18(2) (patients);

(*d*) sub-paragraph (*b*) or (*c*) would apply to him if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding enactment having effect in Great Britain; or

(*e*) he has an invalid carriage or other vehicle provided to him by the Department under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972(**a**) or provided by the Secretary of State under section 5(2)(*a*) of, and Schedule 2 to, the National Health Service Act 1977(**b**) or under section 46 of the National Health Service (Scotland) Act 1978(**c**).''.

Amendment of the Family Credit (General) Regulations

3.—(1) The Family Credit (General) Regulations (Northern Ireland) 1987(**d**) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation) after the definition of ''the Independent Living (1993) Fund''(**e**) there shall be inserted the following definition—

'' ''lone parent'' means a person who has no partner and who is responsible for, and a member of the same household as, a child or young person;''.

(3) In regulation 13(1) (calculation of income on a weekly basis)—

(*a*) at the end of sub-paragraph (*a*) ''and'' shall be omitted;

(*b*) at the end of sub-paragraph (*b*) there shall be added ''and'' and the following sub-paragraph—

(**a**) S.I. 1972/1265 (N.I. 14)
(**b**) 1977 c. 49
(**c**) 1978 c. 29
(**d**) S.R. 1987 No. 463; relevant amending regulations are S.R. 1993 Nos. 120 and 195
(**e**) The definition of ''the Independent Living (1993) Fund'' was inserted by regulation 3(2) of S.R. 1993 No. 195

"(*c*) by then deducting any relevant child care charges to which regulation 13A (treatment of child care charges) applies from any earnings which form part of the normal weekly income, up to a maximum deduction in respect of the claimant's family of £40 per week.".

(4) After regulation 13 there shall be inserted the following regulation—

"*Treatment of child care charges*

13A.—(1) This regulation applies where a claimant is incurring relevant child care charges and—

(*a*) is a lone parent and is engaged in remunerative work;

(*b*) is a member of a couple both of whom are engaged in remunerative work; or

(*c*) is a member of a couple where one member is engaged in remunerative work and the other member is incapacitated.

(2) In this regulation—

"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, where the care is provided on premises registered under section 11 of the Children and Young Persons Act (Northern Ireland) 1968 (registration of premises of child-minders) and shall be calculated on a weekly basis in accordance with paragraphs (3) to (6);

"school term-time" means the school term-time applicable to the child for whom care is provided.

(3) Subject to paragraphs (4) to (6), relevant child care charges shall be calculated in accordance with the formula—

$$\frac{X + Y}{52}$$

where—

X is the average weekly charge paid for child care in the most recent 4 complete weeks which fall in school term-time in respect of the child or children concerned, multiplied by 39; and

Y is the average weekly charge paid for child care in the most recent 2 complete weeks which fall out of school term-time in respect of that child or those children, multiplied by 13.

(4) Subject to paragraph (5), where child care charges are being incurred in respect of a child who does not yet attend school, the relevant child care charges shall mean the average weekly charge paid for care provided in respect of that child in the most recent 4 complete weeks.

(5) Where in any case the charges in respect of child care are paid monthly, the average weekly charge for the purposes of paragraph (3) shall be established—