1994 No. 77

SOCIAL SECURITY

The Income-Related Benefits (Miscellaneous Amendments) Regulations (Northern Ireland) 1994

Made . . . . . 7th March 1994

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*), 123(1)(*d*)(i), 131(1), 132(3) and (4)(*a*) and (*b*), 133(2)(*d*)(ii) 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, 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) 1994 and shall come into operation—

(*a*) for the purposes of this regulation and regulation 4(1), (7) and (8)(*a*), on 31st March 1994;

(*b*) for the purposes of regulation 4(2) to (6), (8)(*b*) and (*c*) and (9), on 11th April 1994;

(*c*) for the purposes of regulations 2 and 3, on 12th April 1994.

(2) Regulation 4(7) and (8)(*a*) 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 31st March 1994 which applies in his case.

(3) Regulation 4(2) to (6), (8)(*b*) and (*c*) and (9) 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 11th April 1994 which applies in his case.

(4) For the purposes of paragraphs (2) and (3), the expressions "claimant" and "benefit week" have the same meanings as in the Income Support Regulations.

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

(*a*) except where sub-paragraph (*b*) applies, on 12th April 1994, or

(*b*) where a claimant has an award of family credit or disability working allowance which is current on 11th April 1994, on the day following the expiration of that award.

(a) 1992 c. 7

(6) In these regulations—

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

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

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

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

Amendment of the Disability Working Allowance Regulations

2.—(1) The Disability Working Allowance Regulations shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 22(4) (calculation of net earnings of employed earners) for sub-paragraph (*b*) there shall be substituted the following sub-paragraph—

"(*b*) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages applicable at the date of claim in accordance with section 8(1)(*a*) and (*b*) of that Act, and".

(3) In regulation 23 (calculation of bonus or commission)(**e**) for paragraph (*b*) there shall be substituted the following paragraph—

"(*b*) an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to that part of the earnings the main primary percentage applicable at the date of claim, and".

(4) In regulation 25 (calculation of net profit of self-employed earners)(**f**)—

(*a*) for "one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme" in each place where those words occur there shall be substituted "one half of the amount in respect of any qualifying premium calculated in accordance with paragraph (14A)"(**g**);

(**a**) S.R. 1992 No. 78; relevant amending regulations are S.R. 1992 No. 403 and S.R. 1993 Nos. 120 and 373

(**b**) S.R. 1987 No. 463; relevant amending rules are S.R. 1988 Nos. 131, 303 and 423, S.R. 1990 No. 138, S.R. 1992 Nos. 18, 148 and 403 and S.R. 1993 Nos. 120 and 373

(**c**) S.R. 1987 No. 459; relevant amending rules are S.R. 1988 Nos. 146, 318 and 431, S.R. 1989 Nos. 139, 249 and 395, S.R. 1990 Nos. 33, 131 and 346, S.R. 1991 No. 204, S.R. 1992 Nos. 18 and 201 and S.R. 1993 Nos. 120, 149, 233 and 373

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

(**e**) Relevant amending regulations are S.R. 1992 No. 403

(**f**) Relevant amending regulations are S.R. 1993 No. 373

(**g**) Paragraph (14A) is inserted by regulation 2(4)(*c*) of these regulations

(*b*) in paragraph (14) for "In this regulation" there shall be substituted—

"In this regulation—

(*a*) "qualifying premium" means any premium which at the date of claim is payable periodically in respect of a retirement annuity contract or a personal pension scheme;

(*b*) ";

(*c*) after paragraph (14) there shall be inserted the following paragraph—

"(14A) The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying premium shall be determined—

(*a*) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;

(*b*) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.".

(5) In regulation 29(6) (notional income) for sub-paragraph (*b*) there shall be substituted the following sub-paragraph—

"(*b*) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages applicable at the date of claim in accordance with section 8(1)(*a*) and (*b*) of that Act, and".

(6) In regulation 46 (other amounts to be disregarded)—

(*a*) for "other than grant income and covenant income" there shall be substituted "other than grant income, covenant income and loans treated as income in accordance with regulation 47";

(*b*) after "sums disregarded under regulations 42(2)" there shall be inserted "and (2A)"(**a**).

(7) In Schedule 3 (sums to be disregarded in the calculation of income other than earnings)(**b**)—

(*a*) for paragraph 19 there shall be substituted the following paragraph—

"19. Where the claimant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 18 or 39 refers, and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

(**a**) Paragraph (2A) was inserted by regulation 2(10) of S.R. 1992 No. 403

(**b**) Relevant amending regulations are S.R. 1993 No. 120

(*a*) £4 of the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, and

(*b*) a further £8·60, where the aggregate of any such payments is inclusive of an amount for heating.'';

(*b*) for paragraph 39 there shall be substituted the following paragraph—

''39. Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

(*a*) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20·00, 100 per cent. of such payments, or

(*b*) where the aggregate of any such payments exceeds £20·00, £20·00 and 50 per cent. of the excess over £20·00.'';

(*c*) after paragraph 49 there shall be added the following paragraph—

''50. Where the claimant is in receipt of any benefit under Parts II, III or V of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part IV (increases for dependants) or section 106(*a*) (unemployability supplement) of that Act where the dependant in respect of whom the increase is paid is not a member of the claimant's family.''.

Amendment of the Family Credit Regulations

3.—(1) The Family Credit Regulations shall be amended in accordance with paragraphs (2) to (14).

(2) In regulation 2(1) (interpretation)—

(*a*) in the definition of ''assessment period''(**a**) for ''regulation 14'' there shall be substituted ''regulation 14 or, as the case may be, 14A''(**b**);

(*b*) after the definition of ''date of claim'' there shall be inserted the following definition—

'' ''director'' means a director of a company, and for this purpose ''company'' means a company within the meaning of Article 3(1) of the Companies (Northern Ireland) Order 1986(**c**) or a body corporate to which, by virtue of Article 667 of that Order, any provision of that Order applies;''.

(3) In regulation 14(1) (normal weekly earnings of employed earners)(**d**)—

(**a**) The definition of ''assessment period'' was inserted by regulation 2(*a*) of S.R. 1992 No. 148
(**b**) Regulation 14A is inserted by regulation 3(4) of these regulations
(**c**) S.I. 1986/1032 (N.I. 6)
(**d**) Relevant amending regulations are S.R. 1992 No. 148

(*a*) after "an employed earner," there shall be inserted "except where those earnings arise from employment as a director,";

(*b*) for "his weekly earnings from that employment over" there shall be substituted "his earnings from that employment received in".

(4) After regulation 14 there shall be inserted the following regulation—

"*Normal weekly earnings of directors*

14A.—(1) Subject to paragraph (2) and regulation 17 (periods to be disregarded), where a claimant's income includes earnings from employment as a director, his normal weekly earnings from that employment shall be determined by reference to his earnings from that employment received in the year immediately preceding the week of claim.

(2) Where at the date of claim the claimant has been in employment as a director for less than a year, his normal weekly earnings from that employment shall be determined by reference to any earnings received in the period that he has been in that employment and by reference to an estimate of the earnings likely to be received in the remainder of the first year of the employment.".

(5) In regulation 15 (normal weekly earnings of self-employed earners)(**a**)—

(*a*) in paragraph (1) for sub-paragraph (*a*) there shall be substituted the following sub-paragraphs—

"(*a*) except where sub-paragraph (*aa*) or (*b*) applies, over a period of 6 consecutive complete months up to and including the second last complete month immediately preceding the date of claim;

(*aa*) except where sub-paragraph (*b*) applies, where the claimant provides in respect of the employment a statement of his earnings and expenses for the 6 consecutive complete months up to and including the last complete month immediately preceding the date of claim, over that period of 6 months;";

(*b*) for paragraph (2) there shall be substituted the following paragraph—

"(2) Subject to regulation 17, in a case where the claimant has been in employment as a self-employed earner for less than 7 complete months, his normal weekly earnings shall be determined over a period of 6 consecutive complete months commencing with the first complete month after the claimant began that employment, and that determination shall be based on either—

(*a*) where the claimant provides in relation to that employment a statement of his earnings and expenses for the complete months up to and including the last complete month immediately preceding the date of claim, the earnings he received in those months, or

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(**a**) Relevant amending regulations are S.R. 1988 No. 423 and S.R. 1992 No. 403