1993 No. 373

SOCIAL SECURITY

The Income-Related Benefits (Amendment No. 4) Regulations (Northern Ireland) 1993

Made . . . . . 31st August 1993

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 127(5), 128(8), 131(1), 132(1), (3), and (4)(*b*), 133(2)(*c*), (*d*), (*e*), (*l*) and (*m*) 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 (Amendment No. 4) Regulations (Northern Ireland) 1993 and shall come into operation as follows—

(*a*) regulations 1 and 4 on 4th October 1993;

(*b*) regulations 2 and 3 on 5th October 1993.

(2) Regulations 1 and 4 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 4th October 1993 which applies in his case; and for this purpose the expressions "benefit week" and "claimant" have the same meanings as in the Income Support Regulations.

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

(*a*) except where sub-paragraph (*b*) applies, on 5th October 1993; or

(*b*) where a claimant has an award of family credit or disability working allowance which is current on 4th October 1993, 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. 1993 No. 120
(**c**) S.R. 1987 No. 463; relevant amending regulations are 1988 Nos. 131 and 423, S.R. 1990 Nos. 138, 297 and 387, S.R. 1992 Nos. 148 and 403 and S.R. 1993 No. 120

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

(5) 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 Disability Working Allowance Regulations

2.—(1) The Disability Working Allowance Regulations shall be amended in accordance with paragraphs (2) to (12).

(2) In regulation 2 (interpretation)—

(*a*) after the definition of "the Child Support Order" there shall be inserted the following definition—

" "the Contributions and Benefits Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992";

(*b*) after the definition of "lower rate" there shall be inserted the following definition—

" "maternity leave" means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Articles 15 and 28 to 30 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976(**c**);";

(*c*) after the definition of "payment" there shall be inserted the following definition—

" "personal pension scheme" has the same meaning as in Article 2(2) of the Order and, in the case of a self-employed earner, includes a scheme approved by the Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(**d**);".

(3) In regulation 6 (remunerative work) for paragraph (6) there shall be substituted the following paragraph—

"(6) For the purposes of paragraph (5)—

(*a*) work which a person does only qualifies if—

(i) it is the work he normally does; and

(**a**) S.R. 1987 No. 459; relevant amending rules are S.R. 1988 Nos. 146, 274, 318 and 431, S.R. 1989 Nos. 139 and 365, S.R. 1990 Nos. 131, 297 and 387, S.R. 1992 Nos. 6, 147 and 403 and S.R. 1993 Nos. 28, 149, 150, 165 and 311

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

(**c**) S.I. 1976/2147 (N.I. 28); Article 15 was amended by paragraph 38 of Schedule 7 to the Nurses, Midwives and Health Visitors Act 1979 (c. 36), Article 13(1) and (2) of, and Schedule 3 to, the Industrial Relations (Northern Ireland) Order 1982 (S.I. 1982/528 (N.I. 8)) and paragraph 48 of Schedule 9 and Schedule 10 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)); Article 28 was amended by paragraph 15 of Schedule 5 to the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)); Article 29 was amended by Article 13(3) of the Industrial Relations (Northern Ireland) Order 1982 and Article 30 was amended by Schedule 2 to the Industrial Relations (Northern Ireland) Order 1982

(**d**) 1988 c. 1

(ii) it is likely to last for a period of 5 weeks or more beginning with the week of claim, and

(*b*) a person shall be treated as not on a recognised, customary or other holiday on any day on which the person is on maternity leave or is absent from work because he is ill.''.

(4) In regulation 11 (circumstances in which a person is to be treated as being no longer a member of the same household) for paragraph (1) there shall be substituted the following paragraph—

''(1) Subject to paragraphs (2) and (3), where the claimant and any partner of his are living apart from each other they shall be treated as members of the same household unless they do not intend to resume living together.''.

(5) In regulation 18 (normal weekly income other than earnings)—

(*a*) in paragraph (1) for ''a claimant's normal weekly income which does not consist of earnings'' there shall be substituted ''where a claimant's normal weekly income does not consist of earnings, or includes income that does not consist of earnings, that income'';

(*b*) in paragraph (2)(*a*) after ''at regular intervals'' there shall be inserted ''and of regular amounts'';

(*c*) in paragraph (2A)(**a**)—

(i) in sub-paragraph (*a*) after ''at regular intervals'' there shall be inserted ''and of regular amounts'';

(ii) in sub-paragraph (*b*) after ''not so made,'' there shall be inserted ''except in a case to which sub-paragraph (*c*) applies,'';

(iii) after sub-paragraph (*b*) there shall be inserted the following sub-paragraph—

''(*c*) where the maintenance assessment has been notified to the claimant under regulation 10 of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**b**) during the 13 weeks immediately preceding the week of claim, by reference to the average of such payments, calculated on a weekly basis, received in the interim period,'';

(*d*) in paragraph (4) after sub-paragraph (b) there shall be added the following sub-paragraph—

''(*c*) ''the interim period'' means the week in which the date of notification of the maintenance assessment falls and the subsequent period up to and including the week immediately preceding the week of claim.''.

(6) In regulation 25 (calculation of net profit of self-employed earners)—

(*a*) for ''one half of any qualifying premium payable'' in each place where those words occur there shall be substituted ''one half of any

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(**a**) Paragraph (2A) was inserted by S.R. 1993 No. 120
(**b**) S.R. 1992 No. 340

premium paid in respect of a retirement annuity contract or a personal pension scheme'';

(*b*) for paragraph (14) there shall be substituted the following paragraph—

''(14) In this regulation ''retirement annuity contract'' means an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision of a life annuity in old age or the provision of an annuity for a partner or dependant and in respect of which relief from income tax may be given on any premium.''.

(7) In regulation 27(1) (calculation of income other than earnings) for the words from ''regulation 28'' to the end there shall be substituted ''regulations 28 and 30 (capital treated as income and modifications in respect of children and young persons).''.

(8) In regulation 30 (modifications in respect of children and young persons)—

(*a*) in paragraph (1) '', except where otherwise provided,'' shall be omitted;

(*b*) in paragraph (2) for ''the foregoing provisions'' there shall be substituted ''Chapters I to V'';

(*c*) in paragraph (3) for ''except where otherwise provided'' there shall be substituted ''except as provided in paragraph (1)''.

(9) In regulation 41 (interpretation) in the definition of ''a course of advanced education'' for ''Technician'' in both places where it occurs there shall be substituted ''Technology''.

(10) In regulation 51(4) (determination of appropriate maximum disability working allowance) for ''except where otherwise provided'' there shall be substituted ''except as provided in regulation 30(1) (modifications in respect of children and young persons)''.

(11) In Schedule 3 (sums to be disregarded in the calculation of income other than earnings) in paragraph 14(*a*) after ''such a pension'' there shall be inserted '', except in so far as such a pension or payment falls to be disregarded under paragraph 6 or 7''.

(12) In Schedule 4 (capital to be disregarded)—

(*a*) in paragraph 21 after ''(capital treated as income)'' there shall be inserted '', 30(1) (modifications in respect of children and young persons)'';

(*b*) in paragraph 32 for ''Any payment not exceeding £200'' there shall be substituted ''£200 of any payment, or, if the payment is less than £200, the whole of any payment''.

Amendment of the Family Credit Regulations

3.—(1) The Family Credit Regulations shall be amended in accordance with paragraphs (2) to (12).

(2) In regulation 2 (interpretation)—

(*a*) after the definition of ''the Child Support Order'' there shall be inserted the following definition—

'' ''the Contributions and Benefits Act'' means the Social Security Contributions and Benefits (Northern Ireland) Act 1992'';

(*b*) after the definition of ''lower rate'' there shall be inserted the following definition—

'' ''maternity leave'' means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Articles 15 and 28 to 30 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976;'';

(*c*) after the definition of ''payment'' there shall be inserted the following definition—

'' ''personal pension scheme'' has the same meaning as in Article 2(2) of the Order and, in the case of a self-employed earner, includes a scheme approved by the Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988;''.

(3) In regulation 4 (remunerative work) for paragraph (6) there shall be substituted the following paragraph—

''(6) For the purposes of paragraph (5)—

(*a*) work which a person does only qualifies if—

(i) it is the work he normally does; and

(ii) it is likely to last for a period of 5 weeks or more beginning with the week of claim, and

(*b*) a person shall be treated as not on a recognised, customary or other holiday on any day on which the person is on maternity leave or is absent from work because he is ill.''.

(4) In regulation 9 (circumstances in which a person is to be treated as being no longer a member of the same household) for paragraph (1) there shall be substituted the following paragraph—

''(1) Subject to paragraphs (2) and (3), where the claimant and any partner of his are living apart from each other they shall be treated as members of the same household unless they do not intend to resume living together.''.

(5) In regulation 16 (normal weekly income other than earnings)—

(*a*) in paragraph (1) for ''a claimant's normal weekly income which does not consist of earnings'' there shall be substituted ''where a claimant's normal weekly income does not consist of earnings, or includes income that does not consist of earnings, that income'';

(*b*) in paragraph (2)(*a*) after ''at regular intervals'' there shall be inserted ''and of regular amounts'';