1993 No. 234

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1993

Made	*17th May 1993*
Coming into operation . .	*15th June 1993*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 36(6) and 99(5) of the Health and Personal Social Services (Northern Ireland) Order 1972(**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 Health and Personal Social Services (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1993 and shall come into operation on 15th June 1993.

(2) In these regulations, ''the principal regulations'' means the Health and Personal Social Services (Assessment of Resources) Regulations (Northern Ireland) 1993(**b**).

Amendment of regulation 2 of the principal regulations

2. In paragraph (1) of regulation 2 of the principal regulations (interpretation)—

(*a*) after the definition of ''attendance allowance'' there shall be inserted:

'' ''child support maintenance'' shall be construed in accordance with Article 4(6) of the Child Support (Northern Ireland) Order 1991(**c**);'';

(*b*) for the definition of ''the Independent Living Fund'' there shall be substituted:

'' ''the Independent Living Funds'' has the same meaning as in the Income Support Regulations(**d**);'';

(**a**) S.I. 1972/1265 (N.I. 14); Article 36 was substituted by Article 25 of S.I. 1991/194 (N.I. 1), and then amended by paragraph 2(4) and (5) of Schedule 1 to S.I. 1992/3204 (N.I. 20); and Article 99 was substituted by Article 27 of S.I. 1991/194 (N.I. 1)

(**b**) S.R. 1993 No. 127

(**c**) S.I. 1991/2628 (N.I. 23)

(**d**) *See* regulation 2(1) of S.R. 1987 No. 459; the relevant amending instruments are S.R. 1988 No. 205 and S.R. 1993 No. 195

(*c*) before the definition of ''invalidity pension'' there shall be inserted:

'' ''invalid care allowance'' means an invalid care allowance under section 70 of the Contributions and Benefits Act;''.

Amendment in relation to child support maintenance

3. After regulation 6 of the principal regulations (liable relatives) there shall be inserted the following regulation—

''*Child support maintenance*

6A.—(1) Except in circumstances where paragraph (2) applies, any payment of child support maintenance to a resident shall not be treated as part of a resident's income or capital for the purposes of these regulations.

(2) Where a resident is accompanied by a child and accommodation is provided for that child under Article 15 or 36 of the Order, any payment of child support maintenance made in respect of that child to the resident shall be treated as part of the income of the resident and Part IV of these regulations (liable relatives) shall not apply to any such payment.''.

Amendment in relation to the calculation of income

4. In regulation 14(2) of the principal regulations (calculation of net earnings of employed earners) for the words ''from the calculation of'' there shall be substituted the words ''in the calculation of''.

Amendments in relation to payments by third parties

5.—(1) After paragraph (3) of regulation 16 of the principal regulations (capital treated as income) there shall be inserted the following paragraph—

''(4) Any payment of capital made or due to be made to a Board by a third party pursuant to an agreement between the Board and the third party in connection with the liability of the resident to pay the Board for his accommodation shall be treated as part of the income of the resident, unless it is a voluntary payment made for the purpose of discharging any arrears of payments required by the Board from the resident for his accommodation.''.

(2) At the beginning of paragraph (4) of regulation 17 of the principal regulations (notional income) there shall be inserted the words ''Subject to paragraph (5),''.

(3) After paragraph (4) of regulation 17 of the principal regulations there shall be inserted the following paragraph—

''(5) A resident shall not be treated as possessing any voluntary payment of income made by a third party to a Board for the purpose of discharging any arrears of the payments required by the Board from the resident for his accommodation.''.

(4) After paragraph (7) of regulation 22 of the principal regulations (income treated as capital) there shall be inserted the following paragraph—

''(8) Any voluntary payment of income made by a third party to a resident for the purpose of helping the resident to discharge any arrears of the payments required by the Board from the resident for his accommodation shall be treated as capital of the resident.''.