1993 No. 120

SOCIAL SECURITY

The Income-Related Benefits (Amendment) Regulations (Northern Ireland) 1993

Made . . . . . 16th March 1993

Coming into operation in accordance with regulation 1

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 127(3), 128(6), 131(1) and 132(1), (3) and (4)(*a*) and (*b*) 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) Regulations (Northern Ireland) 1993 and shall come into operation as follows—

(*a*) regulations 1, 2(1), (2)(*a*) and (*c*) and (8), 3(1), (2)(*a*) and (*c*) and (8) and 4(1), (2)(*b*) and (8), and regulations 2(7), 3(7) and 4(7) in so far as they relate to council tax and council tax benefit, on 1st April 1993;

(*b*) regulation 4(2)(*a*) and (3) to (6), and regulation 4(7) in so far as it is not already in operation, on 12th April 1993;

(*c*) regulations 2(2)(*b*) and (3) to (6) and 3(2)(*b*) and (3) to (6), and regulations 2(7) and 3(7) in so far as they are not already in operation, on 13th April 1993.

(2) Regulation 4(2)(*a*) and (3) to (6) 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 12th April 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(2)(*b*) and (3) to (6) and 3(2)(*b*) and (3) to (6), and 2(7)(*b*) and 3(7)(*c*) except in so far as they come into operation on 1st April 1993 shall have effect in relation to any particular claimant—

(*a*) except where sub-paragraph (*b*) applies, on 13th April 1993; or

(*b*) where a claimant has an award of family credit or disability working allowance which is current on 12th April 1993, on the day following the expiration of that award.

(a) 1992 c. 7

(4) 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**).

(5) 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 (8).

(2) In regulation 2 (interpretation)—

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

" "the Child Support Order" means the Child Support (Northern Ireland) Order 1991(**e**);

(*b*) for the definition of "community charge benefit" there shall be substituted the following definition—

" "community charge benefit" means community charge benefit under Part VII of the Social Security Contributions and Benefits Act 1992 as originally enacted(**f**);";

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

" "council tax benefit" means council tax benefit under Part VII of the Social Security Contributions and Benefits Act 1992;".

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

(*a*) in paragraph (1) for "paragraph (2)" there shall be substituted "paragraphs (2) and (2A)";

(*b*) in paragraph (2)—

(i) for "his family" there shall be substituted "the claimant's family";

(ii) after "weekly income shall" there shall be inserted ", except where paragraph (2A) applies,";

(a) S.R. 1992 No. 78

(b) S.R. 1987 No. 463; relevant amending regulations are S.R. 1988 Nos. 131, 303 and 423, S.R. 1990 No. 138 and S.R. 1992 No. 148

(c) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 Nos. 146, 318 and 431, S.R. 1989 No. 395, S.R. 1990 No. 131, S.R. 1991 No. 46 and S.R. 1992 Nos. 147, 236 and 298

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

(e) S.I. 1991/2628 (N.I. 23)

(f) 1992 c. 4; Part VII of the Social Security Contributions and Benefits Act 1992 was amended by section 103 of, and Schedule 9 to, the Local Government Finance Act 1992 (c. 14), which replaced references to community charge benefit with references to council tax benefit

(*c*) after paragraph (2) there shall be inserted the following paragraph—

"(2A) Where a claimant's income consists of child support maintenance, his normal weekly income in respect of that maintenance shall be determined—

(*a*) if before the date of claim those maintenance payments are made at regular intervals, by reference to the normal weekly amount;

(*b*) if they are not so made, by reference to the average of such payments received in the 13 weeks immediately preceding the week in which the date of claim falls,

and if the resulting sum exceeds the amount of child support maintenance due under the maintenance assessment, the normal weekly income shall be the amount due under the maintenance assessment.";

(*d*) after paragraph (3) there shall be added the following paragraph—

"(4) In this regulation—

(*a*) "child support maintenance" means such periodical payments as are referred to in Article 4(6) of the Child Support Order;

(*b*) "maintenance assessment" has the same meaning as in Article 2(2) of the Child Support Order.".

(4) In regulation 21(2) (earnings of employed earners)—

(*a*) in sub-paragraph (*b*) "or" shall be omitted;

(*b*) in sub-paragraph (*c*) for "pension." there shall be substituted "pension; or";

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

"(*d*) any statutory maternity pay or a corresponding benefit under any enactment having effect in Great Britain.".

(5) In regulation 30(3) (modifications in respect of children and young persons) after "of that child or young person" there shall be inserted ", other than income consisting of any payment of maintenance whether under a court order or not,".

(6) After regulation 56 (overlapping awards of disability working allowance) there shall be inserted the following regulation—

"Reduced benefit direction

56A.—(1) The following occurrences shall be changes of circumstances which affect an award of disability working allowance and the rate at which it is payable—

(*a*) a reduced benefit direction given by a child support officer under Article 43(5) of the Child Support Order;

(*b*) the cessation or cancellation of a reduced benefit direction under Part IX of the Maintenance Assessment Procedure Regulations;

(*c*) the suspension of a reduced benefit direction under regulation 46(1) of the Maintenance Assessment Procedure Regulations;

(*d*) the removal of a suspension imposed under regulation 46(1) of the Maintenance Assessment Procedure Regulations in accordance with regulation 46(3).

(2) In this regulation—

(*a*) ''child support officer'' means a person appointed in accordance with Article 15 of the Child Support Order;

(*b*) ''the Maintenance Assessment Procedure Regulations'' means the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**a**).''.

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

(*a*) in paragraph 16(2) for the words from ''only to the extent of'' to the end there shall be substituted—

''only to the extent of—

(*a*) any mortgage repayments made in respect of the premises or land in the period during which that income accrued; or

(*b*) any rates which the claimant is liable to pay in respect of the premises or land and which are paid in the period during which that income accrued.'';

(*b*) in paragraph 41 at the end there shall be added ''or reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992(**b**) (reduction of liability for council tax)'';

(*c*) after paragraph 47 there shall be added the following paragraphs—

''48. Any council tax benefit.

49. Any guardian's allowance.''.

(8) In Schedule 4 (capital to be disregarded) in paragraph 37 after ''(reduced liability for personal community charge)'' there shall be inserted ''or reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992 (reduction of liability for council tax),''.

Amendment of the Family Credit Regulations

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

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

(*a*) after the definition of ''the Act'' there shall be inserted the following definition—

'' ''the Child Support Order'' means the Child Support (Northern Ireland) Order 1991;'';

(*b*) for the definition of ''community charge benefit'' there shall be substituted the following definition—

(**a**) S.R. 1992 No. 340
(**b**) 1992 c. 14

" "community charge benefit" means community charge benefit under Part VII of the Social Security Contributions and Benefits Act 1992 as originally enacted;";

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

" "council tax benefit" means council tax benefit under Part VII of the Social Security Contributions and Benefits Act 1992;".

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

(*a*) in paragraph (1) for "paragraph (2)" there shall be substituted "paragraphs (2) and (2A)";

(*b*) in paragraph (2)—

(i) for "his family" there shall be substituted "the claimant's family";

(ii) after "weekly income shall" there shall be inserted ", except where paragraph (2A) applies,";

(*c*) after paragraph (2) there shall be inserted the following paragraph—

"(2A) Where a claimant's income consists of child support maintenance, his normal weekly income in respect of that maintenance shall be determined—

(*a*) if before the date of claim those maintenance payments are made at regular intervals, by reference to the normal weekly amount;

(*b*) if they are not so made, by reference to the average of such payments received in the 13 weeks immediately preceding the week in which the date of claim falls,

and if the resulting sum exceeds the amount of child support maintenance due under the maintenance assessment, the normal weekly income shall be the amount due under the maintenance assessment.";

(*d*) after paragraph (3) there shall be added the following paragraph—

"(4) In this regulation—

(*a*) "child support maintenance" means such periodical payments as are referred to in Article 4(6) of the Child Support Order;

(*b*) "maintenance assessment" has the same meaning as in Article 2(2) of the Child Support Order.".

(4) In regulation 19(2) (earnings of employed earners)—

(*a*) in sub-paragraph (*c*) for "pension." there thall be substituted "pension;";

(*b*) after sub-paragraph (*c*) there shall be added the following sub-paragraph—

"(d) any statutory maternity pay or a corresponding benefit under any enactment having effect in Great Britain.".