1991 No. 204

HOUSING; RATES; SOCIAL SECURITY

The Income-Related Benefits and Social Security (Recoupment) (Amendment) Regulations (Northern Ireland) 1991

Made	*10th May 1991*
Coming into operation . .	*11th May 1991*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(1), 23(8) and (9)(*a*) to (*c*) and 52(1)(*h*) of the Social Security (Northern Ireland) Order 1986(**a**) and Article 24(5) of the Social Security (Northern Ireland) Order 1989(**b**) and of all other powers enabling it in that behalf, and with the consent of the Department of the Environment(**c**) so far as relates to matters with regard to which such consent is required, and after agreement by the Social Security Advisory Committee that proposals to make these regulations in so far as they are required to be referred to it should not be so referred(**d**), hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Income-Related Benefits and Social Security (Recoupment) (Amendment) Regulations (Northern Ireland) 1991 and shall come into operation on 11th May 1991.

(2) In these regulations—

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

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**f**);

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**g**);

"the Social Security (Recoupment) Regulations" means the Social Security (Recoupment) Regulations (Northern Ireland) 1990(**h**).

(**a**) S.I. 1986/1888 (N.I. 18)
(**b**) S.I. 1989/1342 (N.I. 13)
(**c**) *See* Article 81(5) of the Social Security (Northern Ireland) Order 1986
(**d**) *See* Article 62(1)(*b*) of the Social Security (Northern Ireland) Order 1986
(**e**) S.R. 1987 No. 463; the relevant amending regulations are S.R. 1988 Nos. 131, 205, 303 and 423 and S.R. 1990 No. 33
(**f**) S.R. 1987 No. 461; the relevant amending regulations are S.R. 1988 Nos. 117 and 424 and S.R. 1990 Nos. 33, 136 and 345
(**g**) S.R. 1987 No. 459; the relevant amending regulations are S.R. 1988 Nos. 146, 205, 318 and 431, S.R. 1989 No. 139 and S.R. 1990 No. 33
(**h**) S.R. 1990 No. 85; the relevant amending regulations are S.R. 1990 No. 282

Amendment of the Family Credit Regulations

2.—(1) The Family Credit Regulations shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 2(1) (interpretation) after the definition of ''the Macfarlane (Special Payments) Trust'' there shall be inserted the following definition—

'' ''the Macfarlane (Special Payments) (No. 2) Trust'' means the trust of that name, established on 3rd May 1991 partly out of funds provided by the Secretary of State for Social Security, for the benefit of certain persons suffering from haemophilia and other beneficiaries;''.

(3) In regulation 26(3) (notional income) after ''the Macfarlane (Special Payments) Trust'' there shall be inserted '', the Macfarlane (Special Payments) (No. 2) Trust''.

(4) In regulation 31 (income treated as capital) for paragraph (3) there shall be substituted the following paragraph—

''(3) Any charitable or voluntary payment which is not made or is not due to be made at regular intervals, other than a payment which is made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust or the Independent Living Fund, shall be treated as capital.''.

(5) In regulation 34(3) (notional capital) after ''the Macfarlane (Special Payments) Trust'' there shall be inserted '', the Macfarlane (Special Payments) (No. 2) Trust''.

(6) In Schedule 2 (sums to be disregarded in the calculation of income other than earnings) for paragraph 35 there shall be substituted the following paragraph—

''35.—(1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (''the Trusts''), or the Independent Living Fund.

(2) Any payment by or on behalf of a person who suffered or is suffering from haemophilia, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers, and which is made to or for the benefit of—

(*a*) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced;

(*b*) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or

(*c*) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who suffered or is suffering from haemophilia, provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers, and which is made to or for the benefit of—

(*a*) the person who is suffering from haemophilia;

(*b*) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or

(*c*) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(4) Any payment by a person who is suffering from haemophilia, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—

(*a*) that person has no partner or former partner from whom he is not estranged or divorced, nor any child or young person who is or had been a member of that person's family; and

(*b*) the payment is made either—

(i) to that person's parent or step-parent, or

(ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of 2 years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—

(*a*) that person at the date of his death (''the relevant date'') had no partner or former partner from whom he was not estranged or divorced, nor any child or young person who was or had been a member of his family; and

(*b*) the payment is made either—

(i) to that person's parent or step-parent, or

(ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of 2 years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.''.

(7) In Schedule 3 (capital to be disregarded)—

(*a*) for paragraph 23 there shall be substituted the following paragraph—

''23.—(1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (''the Trusts''), or the Independent Living Fund.

(2) Any payment by or on behalf of a person who suffered or is suffering from haemophilia, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers, and which is made to or for the benefit of—

(*a*) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced;

(*b*) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or

(*c*) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who suffered or is suffering from haemophilia, provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers, and which is made to or for the benefit of—

(*a*) the person who is suffering from haemophilia;

(*b*) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or

(*c*) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(4) Any payment by a person who is suffering from haemophilia, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—

(*a*) that person has no partner or former partner from whom he is not estranged or divorced, nor any child or young person who is or had been a member of that person's family; and

(*b*) the payment is made either—

(i) to that person's parent or step-parent, or

(ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of 2 years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—

(*a*) that person at the date of his death (''the relevant date'') had no partner or former partner from whom he was not estranged or divorced, nor any child or young person who was or had been a member of his family; and

(*b*) the payment is made either—

(i) to that person's parent or step-parent, or

(ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time

education and had no parent or step-parent, to his guardian,

but only for a period of 2 years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.'';

(*b*) in paragraph 31 at the end there shall be added ''or the Macfarlane (Special Payments) (No. 2) Trust''.

Amendment of the Housing Benefit Regulations

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

(2) In regulation 2(1) (interpretation) after the definition of ''the Macfarlane (Special Payments) Trust'' there shall be inserted the following definition—

'' ''the Macfarlane (Special Payments) (No. 2) Trust'' means the trust of that name, established on 3rd May 1991 partly out of funds provided by the Secretary of State for Social Security, for the benefit of certain persons suffering from haemophilia and other beneficiaries;''.

(3) In regulation 35(3) (notional income) after ''the Macfarlane (Special Payments) Trust'' there shall be inserted '', the Macfarlane (Special Payments) (No. 2) Trust''.

(4) In regulation 40(6) (income treated as capital) after ''the Macfarlane (Special Payments) Trust'' there shall be inserted '', the Macfarlane (Special Payments) (No. 2) Trust''.

(5) In regulation 43(3) (notional capital) after ''the Macfarlane (Special Payments) Trust'' there shall be inserted '', the Macfarlane (Special Payments) (No. 2) Trust''.

(6) In regulation 73(1) (evidence and information) for ''the Macfarlane Trust or the Macfarlane (Special Payments) Trust'' there shall be substituted ''the Macfarlane Trust, the Macfarlane (Special Payments) Trust or the Macfarlane (Special Payments) (No. 2) Trust''.

(7) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings) for paragraph 37 there shall be substituted the following paragraph—

''37.—(1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (''the Trusts''), or the Independent Living Fund.

(2) Any payment by or on behalf of a person who suffered or is suffering from haemophilia, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers, and which is made to or for the benefit of—

(*a*) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced;