1990 No. 347

SOCIAL SECURITY

The Family Credit (General) (Amendment No. 2) Regulations (Northern Ireland) 1990

Made . . . . . 25th September 1990

Coming into operation . . 2nd October 1990

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 23(8) and (9)(*a*) and (*b*) of the Social Security (Northern Ireland) Order 1986(**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 Family Credit (General) (Amendment No. 2) Regulations (Northern Ireland) 1990 and shall come into operation on 2nd October 1990.

(2) In these regulations "the principal regulations" means the Family Credit (General) Regulations (Northern Ireland) 1987(**b**).

Amendment of regulation 34 of the principal regulations

2. In regulation 34(1) of the principal regulations (notional capital) for "except where" to the end there shall be substituted "except—

(*a*) where that capital is derived from a payment made in consequence of any personal injury and is placed on trust for the benefit of the claimant; or

(*b*) to the extent that the capital which he is treated as possessing is reduced in accordance with regulation 34A (diminishing notional capital rule).".

Insertion of regulation 34A in the principal regulations

3. After regulation 34 of the principal regulations (notional capital) there shall be inserted the following regulation—

"Diminishing notional capital rule

34A.—(1) Where a claimant is treated as possessing capital under regulation 34(1) (notional capital), the amount which he is treated as possessing—

(*a*) in the case of a benefit week which is subsequent to—

(**a**) S.I. 1986/1888 (N.I. 18)
(**b**) S.R. 1987 No. 463; relevant amending regulations are S.R. 1988 No. 423

(i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied, or

(ii) a week which follows that relevant week and which satisfies those conditions,

shall be reduced by the amount determined under paragraph (3);

(*b*) in the case of a benefit week in respect of which paragraph (1)(*a*) does not apply but where—

(i) that week is a week subsequent to the relevant week, and

(ii) that relevant week is a week in which the condition in paragraph (4) is satisfied,

shall be reduced by the amount determined under paragraph (4).

(2) This paragraph applies to a benefit week where the claimant satisfies the conditions that—

(*a*) he is entitled to family credit; and

(*b*) but for regulation 34(1), he would have been entitled to an additional amount of family credit in that benefit week.

(3) In a case to which paragraph (2) applies, the amount of the reduction for the purposes of paragraph (1)(*a*) shall be equal to the aggregate of—

(*a*) the additional amount of family credit to which the claimant would have been entitled; and

(*b*) the additional amount, if any, of housing benefit to which, but for regulation 43(1) of the Housing Benefit (General) Regulations (Northern Ireland) 1987(**a**) (notional capital), the claimant would have been entitled in respect of the benefit week in which the date of the last claim for family credit falls.

(4) Subject to paragraph (5), for the purposes of paragraph (1)(*b*), the condition is that the claimant would have been entitled to family credit in the relevant week, but for regulation 34(1), and in such a case the amount of the reduction shall be equal to the aggregate of—

(*a*) the amount of family credit to which the claimant would have been entitled in the relevant week but for regulation 34(1); and

(*b*) the additional amount, if any, of housing benefit to which, but for regulation 43(1) of the Housing Benefit (General) Regulations (Northern Ireland) 1987, the claimant would have been entitled in respect of the benefit week in which the first day of the relevant week falls.

(5) The amount determined under paragraph (4) shall be re-determined under that paragraph if the claimant makes a further claim for family credit and the conditions in paragraph (6) are satisfied, and in such a case—

(**a**) S.R. 1987 No. 461; relevant amending regulations are S.R. 1990 No. 345

(*a*) sub-paragraphs (*a*) and (*b*) of paragraph (4) shall apply as if for "relevant week" there were substituted "relevant subsequent week"; and

(*b*) subject to paragraph (7), the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.

(6) The conditions are that—

(*a*) a further claim is made 22 or more weeks after—

(i) the first day of the relevant week,

(ii) in a case where there has been at least one re-determination in accordance with paragraph (5), the first day of the relevant subsequent week which last occurred,

whichever last occurred; and

(*b*) the claimant would have been entitled to family credit but for regulation 34(1).

(7) The amount as re-determined pursuant to paragraph (5) shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.

(8) For the purposes of this regulation—

(*a*) "benefit week" has the meaning prescribed in regulations 16 (date of entitlement under an award for the purpose of determining the day from which benefit is to be payable and effective date of change of rate) and 27 (family credit) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**a**) except where it appears in paragraphs (3)(*b*) and (4)(*b*) where it has the meaning prescribed in regulation 2(1) of the Housing Benefit (General) Regulations (Northern Ireland) 1987 (interpretation);

(*b*) "relevant week" means the benefit week in which the capital in question of which the claimant has deprived himself within the meaning of regulation 34(1)—

(i) was for the first time taken into account for the purpose of determining his entitlement to family credit, or

(ii) was taken into account on a subsequent occasion for that purpose other than in respect of either a benefit week to which paragraph (2) applies or a further claim to which paragraph (5) applies,

and, where more than one benefit week is identified by reference to heads (i) and (ii) of this sub-paragraph, the later or latest such benefit week;

(a) S.R. 1987 No. 465; relevant amending regulations are S.R. 1988 No. 141