1990 No. 346

SOCIAL SECURITY

The Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1990

Made	*25th September 1990*
Coming into operation—	
except for regulation 5	*1st October 1990*
regulation 5	*15th October 1990*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 23(1), (8), (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 Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1990 and shall come into operation, in relation to a particular claimant, as follows—

(*a*) except for regulation 5 at the beginning of the first benefit week to commence for that claimant on or after 1st October 1990;

(*b*) regulation 5 at the beginning of the first benefit week to commence for that claimant on or after 15th October 1990.

(2) In paragraph (1) the expressions "benefit week" and "claimant" have the same meaning as in the principal regulations and in these regulations "the principal regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**b**).

Amendment of regulation 3 of the principal regulations

2. In regulation 3(2) of the principal regulations (definition of non-dependant) for sub-paragraph (*d*) there shall be substituted the following sub-paragraphs—

"(*d*) any person who is liable to make payments on a commercial basis to the claimant or the claimant's partner in respect of the occupation of the dwelling;

(*da*) any person to whom or to whose partner the claimant or the claimant's partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling;

(a) S.I. 1986/1888 (N.I. 18); Article 81(1) provides for section 155(1) to (3) of the Social Security (Northern Ireland) Act 1975 (c. 15) (extent of powers) to apply to the regulation-making powers conferred by this Order

(b) S.R. 1987 No. 459; the relevant amending rules are S.R. 1988 Nos. 146, 318 and 431, S.R. 1989 Nos. 139 and 395 and S.R. 1990 No. 70

(*db*) any other member of the household of the person to whom or to whose partner the claimant or the claimant's partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling;".

Amendment of regulation 51 of the principal regulations

3. In regulation 51(1) of the principal regulations (notional capital) for the words from "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 51A (diminishing notional capital rule).".

Insertion of regulation 51A in the principal regulations

4. After regulation 51 of the principal regulations (notional capital) there shall be inserted the following regulation—

"*Diminishing notional capital rule*

51A.—(1) Where a claimant is treated as possessing capital under regulation 51(1) (notional capital), the amount which he is treated as possessing—

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

(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 (2);

(*b*) in the case of a 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 (3) is satisfied,

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

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

(*a*) he is in receipt of income support; and

(*b*) but for regulation 51(1), he would have received an additional amount of income support in that benefit week or, as the case may be, that part-week,

and in such a case, the amount of the reduction for the purposes of paragraph (1)(*a*) shall be equal to that additional amount.

(3) Subject to paragraph (4), for the purposes of paragraph (1)(*b*) the condition is that the claimant would have been entitled to income support in the relevant week, but for regulation 51(1), and in such a case the amount of the reduction shall be equal to the aggregate of—

(*a*) the amount of income support to which the claimant would have been entitled in the relevant week but for regulation 51(1); and for the purposes of this sub-paragraph if the relevant week is a part-week that amount shall be determined by dividing the amount of income support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7; and

(*b*) the amount of housing benefit (if any) equal to the difference between his maximum housing benefit and the amount (if any) of housing benefit which he is awarded in respect of the benefit week, within the meaning assigned to it in regulation 2(1) of the Housing Benefit (General) Regulations (Northern Ireland) 1987(**a**) (interpretation), which includes the last day of the relevant week.

(4) The amount determined under paragraph (3) shall be re-determined under that paragraph if the claimant makes a further claim for income support and the conditions in paragraph (5) are satisfied, and in such a case—

(*a*) sub-paragraphs (*a*) and (*b*) of paragraph (3) shall apply as if for "relevant week" there were substituted "relevant subsequent week"; and

(*b*) subject to paragraph (6), the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.

(5) The conditions are that—

(*a*) a further claim is made 26 or more weeks after—

(i) the date on which the claimant made a claim for income support in respect of which he was first treated as possessing the capital in question under regulation 51(1),

(ii) in a case where there has been at least one re-determination in accordance with paragraph (4), the date on which he last made a claim for income support which resulted in the weekly amount being re-determined, or

(iii) the date on which he last ceased to be in receipt of income support,

whichever last occurred; and

(*b*) the claimant would have been entitled to income support but for regulation 51(1).

(6) The amount as re-determined pursuant to paragraph (4) 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.

(7) For the purposes of this regulation—

(a) S.R. 1987 No. 461; to which there are amendments not relevant to these regulations

(*a*) "part-week" means a period to which Article 22(1A) of the Order(**a**) (amount, etc. of income support) applies;

(*b*) "relevant week" means the benefit week or part-week in which the capital in question of which the claimant has deprived himself within the meaning of regulation 51(1)—

(i) was first taken into account for the purpose of determining his entitlement to income support, or

(ii) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to income support on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, income support,

and where more than one benefit week or part-week is identified by reference to heads (i) and (ii) the later or latest such benefit week or, as the case may be, the later or latest such part-week;

(*c*) "relevant subsequent week" means the benefit week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.".

Amendment of regulation 57 of the principal regulations

5. In regulation 57(1) of the principal regulations (period over which payments other than periodical payments are to be taken into account) for sub-paragraph (*b*) there shall be substituted the following sub-paragraph—

"(*b*) where the payment is in respect of one, or more than one, child or young person who is a member of the family, the lesser of the amount (or the aggregate of the amounts) prescribed under Schedule 2, in respect of—

(i) the personal allowance of the claimant and each such child or young person,

(ii) any family and lone parent premium,

(iii) any disabled child premium in respect of such a child, and

(iv) any carer premium if, but only if, that premium is payable because the claimant is in receipt, or is treated as being in receipt, of an invalid care allowance by reason of the fact that he is caring for such a child or young person who is severely disabled,

and the aggregate of £2 and the amount of income support which would be payable had the payment not been made.".

Amendment of Schedule 2 to the principal regulations

6. In Schedule 2 to the principal regulations (applicable amounts)—

(*a*) in paragraph 4 for "8 to 14" there shall be substituted "8 to 14ZA";

(*b*) in paragraph 6(2) for "The disabled child premium to which paragraph 14 applies" there shall be substituted "The disabled child premium and

(**a**) Article 22(1A) was inserted by paragraph 16(2) of Schedule 4 to the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2))

the carer premium to which paragraphs 14 and 14ZA respectively apply";

(*c*) in paragraph 7—

(i) at the beginning there shall be inserted "(1) Subject to sub-paragraph (2),",

(ii) after sub-paragraph (1) there shall be added the following sub-paragraph—

"(2) For the purposes of the carer premium under paragraph 14ZA, a person shall be treated as being in receipt of an invalid care allowance by virtue of sub-paragraph (1)(*a*) only if, and for so long as, the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance.";

(*d*) after paragraph 14 there shall be inserted the following paragraph—

"*Carer premium*

14ZA.—(1) The condition for the carer premium is that the claimant or his partner is, or both of them are, in receipt of an invalid care allowance under section 37 of the principal Act(**a**).

(2) If a claimant or his partner, or both of them, would be in receipt of an invalid care allowance but for the provisions of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(**b**), where—

(*a*) the claim for that allowance was made on or after 1st October 1990; and

(*b*) the person or persons in respect of whose care the allowance has been claimed remains or remain in receipt of attendance allowance,

he or his partner, or both of them, as the case may be, shall be treated for the purposes of sub-paragraph (1) as being in receipt of an invalid care allowance.";

(*e*) in paragraph 15 at the end there shall be added the following sub-paragraph—

"(7) Carer Premium.	(7) £10 in respect of each person who satisfies the condition specified in paragraph 14ZA.".

Amendment of Schedule 3 to the principal regulations

7. In Schedule 3 to the principal regulations (housing costs)—

(*a*) in paragraph 7—

(i) for sub-paragraph (4) there shall be substituted the following sub-paragraphs—

(**a**) 1975 c. 15; section 37 was amended by Article 38(1) of, and Schedule 10 to, the Social Security (Northern Ireland) Order 1986

(**b**) S.R. 1979 No. 242; the relevant amending regulations are S.R. 1980 No. 451, S.R. 1983 No. 36 and S.R. 1984 No. 317