1990 No. 131

SOCIAL SECURITY

The Income Support (General) (Amendment) Regulations (Northern Ireland) 1990

Made	*28th March 1990*
Coming into operation—	
regulations 1, 2, 20(e) and 21(a)	*1st April 1990*
regulations 3 to 19, 20(a) to (d) and 21(b)	*9th April 1990*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(3)(*a*) and (*d*), (11), (12)(*b*), (*c*), (*e*) and (*k*) and 23(1), (8) and (9)(*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) Regulations (Northern Ireland) 1990 and shall, subject to paragraph (2), come into operation, in relation to a particular claimant, as follows—

(*a*) regulations 1, 2, 20(*e*) and 21(*a*) at the beginning of the first benefit week to commence for that claimant on or after 1st April 1990;

(*b*) regulations 3 to 19, 20(*a*) to (*d*) and 21(*b*) at the beginning of the first benefit week to commence for that claimant on or after 9th April 1990.

(2) In any case in which these regulations and the Social Security Benefits Up-rating Order (Northern Ireland) 1990(**b**) come into operation on the same day, these regulations shall come into operation immediately after that order.

(3) 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(**c**).

(**a**) S.I. 1986/1888; Article 21(3) was amended by Article 6(1) of the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2)) and by Article 15(1) of the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)); Article 21(11) was amended by Article 7(1) of the Social Security (Northern Ireland) Order 1989; 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. 1990 No. 70

(**c**) S.R. 1987 No. 459; the relevant amending rules are S.R. 1988 Nos. 146, 274, 318 and 431, S.R. 1989 Nos. 139, 249, 365 and 395 and S.R. 1990 No. 70

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation) after the definition of "close relative" there shall be inserted the following definition—

" "community charge benefit" means community charge benefit under Part II of the Social Security Act 1986(**a**);".

Amendment of regulation 4 of the principal regulations

3. In regulation 4 of the principal regulations (temporary absence from Northern Ireland)—

(*a*) in paragraph (1) for the words from "shall continue during" to the end there shall be substituted—

"shall continue only—

(*a*) in the circumstances specified in paragraph (2), during the first 4 weeks of that period of temporary absence; and

(*b*) in the circumstances specified in paragraph (3), during the first 8 weeks of that period of temporary absence.";

(*b*) after paragraph (2) there shall be added the following paragraphs—

"(3) The circumstances in which a claimant's entitlement to income support is to continue during the first 8 weeks of a temporary absence from Northern Ireland are that—

(*a*) the period of absence is unlikely to exceed 52 weeks;

(*b*) the claimant continues to satisfy the other conditions of entitlement to income support;

(*c*) the claimant is, or the claimant and any other member of his family are, accompanying a member of the claimant's family who is a child or young person solely in connection with arrangements made for the treatment of that child or young person for a disease or bodily or mental disablement; and

(*d*) those arrangements relate to treatment—

(i) outside Northern Ireland,

(ii) during the period whilst the claimant is, or the claimant and any member of his family are, temporarily absent from Northern Ireland, and

(iii) by, or under the supervision of, a person appropriately qualified to carry out that treatment.

(4) In paragraphs (2) and (3) "appropriately qualified" means qualified to provide medical treatment or physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.".

(a) 1986 c. 50; Part II was amended by Schedule 10 to the Local Government Finance Act 1988 (c. 41)

Amendment of regulation 5 of the principal regulations

4. In regulation 5 of the principal regulations (persons treated as engaged in remunerative work) after paragraph (6) there shall be added the following paragraph—

"(7) For the purposes of paragraphs (1) and (2), in determining the number of hours for which a person is engaged in work, that number shall include any time allowed to that person by his employer for a meal or for refreshment, but only where that person is, or expects to be, paid earnings in respect of that time.".

Substitution of regulation 12 of the principal regulations

5. For regulation 12 of the principal regulations (relevant education) there shall be substituted the following regulation—

"*Relevant education*

12.—(1) For the purposes of these regulations a child or young person is to be treated as receiving relevant education if, and only if—

(*a*) he is not receiving advanced education; but

(*b*) he is receiving full-time education for the purposes of Article 4 of the Child Benefit (Northern Ireland) Order 1975(**a**) (meaning of child) or, as the case may be, he is treated as a child for the purposes of that Article.

(2) For the purposes of this regulation "receiving advanced education" means participating in any course (whether full-time or part-time)—

(*a*) leading to a postgraduate degree or comparable qualification, a first degree or comparable qualification, a diploma of higher education, a higher national diploma, a higher national diploma of the Business & Technician Education Council or the Scottish Vocational Education Council or a teaching qualification; or

(*b*) any other course which is a course of a standard above ordinary national diploma, a national diploma of the Business & Technician Education Council or a national certificate of the Scottish Vocational Education Council, a general certificate of education (advanced level), a Scottish certificate of education (higher grade) or a Scottish certificate of sixth year studies.".

Amendment of regulation 14 of the principal regulations

6. In regulation 14(2) of the principal regulations (persons of a prescribed description) after "shall not apply to" there shall be inserted "a person who is receiving advanced education within the meaning of regulation 12(2) (relevant education) or to".

(**a**) S.I. 1975/1504 (N.I. 16); Article 4 was amended by Article 5(5) of, and Schedule 4 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)), Article 71(1) of the Social Security (Northern Ireland) Order 1986 and Article 6(3) of the Social Security (Northern Ireland) Order 1988

Amendment of regulation 16 of the principal regulations

7. In regulation 16(5) of the principal regulations (circumstances in which a person is to be treated as being or not being a member of the household)—

(*a*) in sub-paragraph (*a*), at the beginning there shall be inserted "in a case which does not fall within sub-paragraph (*aa*),"; and in head (ii) for "with the date" there shall be substituted "on the day which immediately follows the day";

(*b*) after sub-paragraph (*a*), there shall be inserted the following sub-paragraph—

"(*aa*) where regulation 4(3) or paragraph 11A or 12A of Schedule 7 (temporary absence abroad for the treatment of a child or young person) applies, has been continuously absent from Northern Ireland for a period of more than 8 weeks, that period of 8 weeks commencing—

(i) where he went abroad before the date of the claim for income support, on the date of that claim,

(ii) in any other case, on the day which immediately follows the day on which he went abroad;".

Amendment of regulation 21 of the principal regulations

8. In regulation 21(3) of the principal regulations (special cases), in the definition of "person from abroad", in sub-paragraph (*a*) after "Isle of Man" there shall be inserted ", unless, in the case of a national of a state which is a signatory of that European Convention, he has made an application for the conditions of his leave to remain in the United Kingdom to be varied, and that application has not been determined or an appeal from that application is pending under Part II of the 1971 Act (appeals)".

Amendment of regulation 22 of the principal regulations

9. In regulation 22(1)(*a*) of the principal regulations (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification)—

(*a*) in head (ii) after "but less than 25" there shall be inserted "or a member of a couple or polygamous marriage where one member is aged not less than 18 but less than 25 and the other member, or in the case of a polygamous marriage each other member, is a person under 18 who is not eligible for income support under regulation 13A (persons under 18 years), or is not the subject of a direction under Article 21(4A) of the Order(**a**) (income support to avoid severe hardship)";

(*b*) in head (iii) after "polygamous marriage" there shall be inserted "(other than a member of a couple or polygamous marriage to whom head (ii) applies)".

(**a**) Article 21(4A) was inserted by Article 6(2) of the Social Security (Northern Ireland) Order 1988

Amendment of regulation 29 of the principal regulations

10. In regulation 29(2)(*b*) of the principal regulations (calculation of earnings derived from employed earner's employment and income other than earnings) after ''the amount of that income'' there shall be inserted ''less any amount paid by way of tax on that income which is disregarded under paragraph 1 of Schedule 9 (income other than earnings to be disregarded)''; and for ''or, as the case may be, 9 (earnings and other income to be disregarded)'' there shall be substituted ''(earnings to be disregarded) or, as the case may be, any paragraph of Schedule 9 other than paragraph 1 of that Schedule''.

Amendment of regulation 61 of the principal regulations

11. In regulation 61 of the principal regulations (interpretation), in the definition of ''a course of advanced education'', in paragraph (*b*) after ''Technician Education Council or'' there shall be inserted ''a national certificate of''.

Amendment of regulation 65 of the principal regulations

12. In regulation 65 of the principal regulations (relationship with amounts to be disregarded under Schedule 9) for the words from ''shall only'' to ''extent that,'' there shall be substituted ''to which sub-paragraph (1) of that paragraph applies shall be disregarded only to the extent that''; and for ''£5'' there shall be substituted ''£10''.

Amendment of Schedule 1 to the principal regulations

13. In Schedule 1 to the principal regulations (persons not required to be available for employment) after paragraph 22 there shall be added the following paragraph—

''*Persons taking a child or young person abroad for treatment*

23. A person who is temporarily absent from Northern Ireland in the circumstances specified in regulation 4(3) (temporary absence from Northern Ireland for the treatment of a child or young person).''.

Amendment of Schedule 1A to the principal regulations

14. In Schedule 1A to the principal regulations (circumstances in which a person aged 16 or 17 is eligible for income support), in paragraph 1 at the end there shall be added—

''paragraph 23	(persons taking a child or young person abroad for treatment).''.

Amendment of Schedule 2 to the principal regulations

15. In Schedule 2 to the principal regulations (applicable amounts) after paragraph 14A there shall be inserted the following paragraph—

''*Persons in receipt of benefit*

14B. For the purposes of this Part, a person shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.''.