1988 No. 431

SOCIAL SECURITY

The Income Support (General) (Amendment No. 5) Regulations (Northern Ireland) 1988

Made . . . . . 9th December 1988

Coming into operation—
regulations 1, 2(b) and (c), 3 to 13, 15(b), 16 and 18 to 21 *12th December 1988*
regulations 2(a), 14, 15(a) and 17 *10th April 1989*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(3)(*d*) and (12)(*d*) and 23(1), (8) and (9) 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. 5) Regulations (Northern Ireland) 1988 and shall come into operation as follows—

(*a*) regulations 1, 2(*b*) and (*c*), 3 to 13, 15(*b*), 16 and 18 to 21 on 12th December 1988;

(*b*) regulations 2(*a*), 14, 15(*a*) and 17 on 10th April 1989.

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

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation)—

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

" "board and lodging accommodation" means—

(*a*) accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises; or

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(**a**) S.I. 1986/1888 (N.I. 18); Article 81(1) provides for section 155(1) to (3A) of the Social Security (Northern Ireland) Act 1975 (c. 15) (extent of powers) to apply to the regulation-making powers conferred by this Order; the said section 155(3A) was inserted by Article 63(1)

(**b**) S.R. 1987 No. 459; the relevant amending regulations are S.R. 1988 Nos. 146, 193, 205, 274 and 318

(*b*) accommodation provided to a person in an hotel, guest house, lodging house or some similar establishment,

except accommodation provided by a close relative of his or of any other member of his family, or other than on a commercial basis;'';

(*b*) after the definition of ''close relative'' there shall be inserted the following definition—

'' ''community charge rebate'' means a rebate under the provisions of section 24(*a*) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(a);'';

(*c*) for the definition of ''polygamous marriage'' there shall be substituted the following definition—

'' ''polygamous marriage'' means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;''.

Amendment of regulation 5 of the principal regulations

3. In regulation 5(5) of the principal regulations (persons treated as engaged in remunerative work) for ''payable'' there shall be substituted ''paid''.

Omission of regulation 24 of the principal regulations

4. Regulation 24 of the principal regulations (treatment of charitable or voluntary payments) shall be omitted.

Amendment of regulation 28 of the principal regulations

5. In regulation 28(2) of the principal regulations (calculation of income) ''24 and'' and ''treatment of charitable or voluntary payments,'' shall be omitted.

Amendment of regulation 29 of the principal regulations

6. In regulation 29 of the principal regulations (calculation of earnings derived from employed earner's employment and income other than earnings)—

(*a*) in paragraph (1) ''Except where regulation 33 (weekly amount of charitable or voluntary payment) applies,'' shall be omitted;

(*b*) in paragraph (2) for ''paragraph (3)'' there shall be substituted ''paragraphs (3) and (4A)'';

(*c*) after paragraph (4) there shall be inserted the following paragraph—

''(4A) Where earnings to which regulation 35(1)(*b*) to (*d*) (earnings of employed earners) applies are paid in respect of part of a day, those earnings shall be taken into account over a period equal to a day.''.

(a) 1987 c. 47; section 24 was amended by paragraph 32 of Schedule 12 to the Local Government Finance Act 1988 (c. 41)

Omission of regulation 33 of the principal regulations

7. Regulation 33 of the principal regulations (weekly amount of charitable or voluntary payment) shall be omitted.

Amendment of regulation 40 of the principal regulations

8. In regulation 40(1) of the principal regulations (calculation of income other than earnings) "24(3)," and "treatment of charitable and voluntary payments," shall be omitted.

Amendment of regulation 46 of the principal regulations

9. In regulation 46(1) of the principal regulations (calculation of capital) for the words from "regulations 24(2) and 48" to the end there shall be substituted "regulation 48 (income treated as capital).".

Amendment of regulation 48 of the principal regulations

10. In regulation 48 of the principal regulations (income treated as capital)—

(*a*) in paragraph (4) for "or 12" there shall be substituted ", 12 or 25 to 28"; and

(*b*) after paragraph (8) there shall be added the following paragraphs—

"(9) Any charitable or voluntary payment which is not made or not due to be made at regular intervals, other than one to which paragraph (10) applies, shall be treated as capital.

(10) This paragraph applies to a payment—

(*a*) which is made to a person to whom Article 24 of the Order (trade disputes) applies or in respect of whom Article 21(3) (conditions of entitlement to income support) has effect as modified by Article 24A(*b*) of the Order(**a**) (effect of return to work) or to a member of the family of such a person;

(*b*) to which regulation 44(2) (modifications in respect of children and young persons) applies; or

(*c*) which is made under the Macfarlane Trust or the Independent Living Fund.".

Amendment of regulation 51 of the principal regulations

11. In regulation 51(1) of the principal regulations (notional capital) at the end there shall be added "except 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.".

Amendment of regulation 53 of the principal regulations

12. In regulation 53(3) of the principal regulations (calculation of tariff income from capital) "24(2)," and "charitable or voluntary payments," shall be omitted.

(**a**) Article 24A was added by paragraph 18 of Schedule 4 to the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2))

Amendment of regulation 72 of the principal regulations

13. In regulation 72 of the principal regulations(**a**) (assessment of income and capital in urgent cases)—

(*a*) in paragraph (1)(*a*) after "Independent Living Fund" there shall be inserted "or income to which paragraph 5, 40, 42 or 44 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) applies";

(*b*) in paragraph (1)(*c*) for "regulations 24(1) and (2) (treatment of charitable or voluntary payments) and 48(1), (2) and (3)" there shall be substituted "regulation 48(1), (2), (3) and (9)";

(*c*) in paragraph (2) for ", 7, 9(*b*) and 31 of Schedule 10" there shall be substituted "and, except to the extent that the arrears referred to in paragraph 7 consist of arrears of housing benefit payable under Part III of the Order or Article 3 of the Housing Benefits (Northern Ireland) Order 1983(**b**), 7, 9(*b*), 19, 30 and 32 of Schedule 10".

Amendment of Schedule 1 to the principal regulations

14. In Schedule 1 to the principal regulations (persons not required to be available for employment)—

(*a*) for paragraph 5 there shall be substituted the following paragraph—

"5. A person who provides evidence of incapacity in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(**c**) (evidence of incapacity for work and confinement) in support of a claim for sickness benefit, invalidity pension or severe disablement allowance within the meaning of section 14, 15 or 36 of the principal Act, provided that an adjudication officer has not determined that that person is not incapable of work, or a person who is in receipt of statutory sick pay within the meaning of Part II of the Social Security (Northern Ireland) Order 1982(**d**).";

(*b*) in paragraph 13 for "who is within 10 years of attaining pensionable age and" there shall be substituted "aged not less than 50 who";

(*c*) in paragraph 22 (**e**) for "abroad" there shall be substituted "not present in the United Kingdom".

Amendment of Schedule 2 to the principal regulations

15. In Schedule 2 to the principal regulations (applicable amounts) in paragraph 12—

(*a*) for sub-paragraph (1)(*b*) there shall be substituted the following—

"(*b*) the circumstances of the claimant fall and have fallen, in respect of a continuous period of not less than 28 weeks, within paragraph 5 of Schedule 1 or, if he was in Great Britain for the

(**a**) *See* S.R. 1988 No. 205 regulation 6 and S.R. 1980 No. 318 regulation 15
(**b**) S.I. 1983/1121 (N.I. 14)
(**c**) S.R. 1976 No. 175; the relevant amending regulations are S.R. 1982 No. 153 and S.R. 1987 No. 117
(**d**) S.I. 1982/1084 (N.I. 16)
(**e**) *See* S.R. 1988 No. 274 regulation 7

whole or part of that period, within one or more comparable Great Britain provisions;'';

(*b*) after sub-paragraph (4) there shall be added the following sub-paragraph—

''(5) For the purposes of sub-paragraph (1)(*b*), once the disability premium is applicable to a claimant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 3 of the Employment and Training Act (Northern Ireland) 1950(**a**).''.

Amendment of Schedule 3 to the principal regulations

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

(*a*) in paragraph 1 after sub-paragraph (*a*) there shall be inserted the following sub-paragraph—

''(*aa*) interest payments under a hire purchase agreement to buy the dwelling occupied as the home;'';

(*b*) in paragraph 7(3) for ''(4) to (6)'' there shall be substituted ''(3A) to (6)'';

(*c*) after paragraph 7(3) there shall be added the following sub-paragraph—

''(3A) For the purpose of this paragraph any reference to a loan includes a reference to payments specified in paragraph 1(*aa*).'';

(*d*) in paragraph 7(4) after ''Subject to sub-paragraphs'' there shall be inserted ''(3A),'';

(*e*) in paragraph 7(5), (6) and (7) for ''sub-paragraph (3)'' in each place it occurs there shall be substituted ''sub-paragraphs (3) and (3A)'';

(*f*) in paragraph 8(4) for ''or 20'' there shall be substituted '', 20 or 22 to 34''.

Amendment of Schedule 3A to the principal regulations

17. In Schedule 3A to the principal regulations(**b**) (protected sum)—

(*a*) in paragraph 1(1) in the definition of ''eligible housing benefit'' at the end there shall be added ''which relates to the board and lodging accommodation normally occupied as the home by him or, if he has a partner, by him and his partner'';

(*b*) in paragraph 1(2)(*b*) at the beginning there shall be inserted ''except in so far as it relates to any temporary absence to which paragraph 7(7) refers,'';

(*c*) in paragraph 3—

(i) the existing provision shall be numbered sub-paragraph (1),

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

(**a**) 1950 c. 29 (N.I.)
(**b**) *See* S.R. 1988 No. 318 regulation 26, Schedule 1 paragraph 16 and Schedule 2