1988 No. 318

SOCIAL SECURITY

The Income Support (General) (Amendment No. 4) Regulations (Northern Ireland) 1988

Made	*1st September 1988*
Coming into operation—	
regulations 1 and 13	*5th September 1988*
regulations 2 to 12, 14 to 16 and 18 to 25	*12th September 1988*
regulations 17, 26 and 27	*10th April 1989*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(3)(*d*), (11) and (12)(*c*) and (*d*), 22(1A) 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. 4) Regulations (Northern Ireland) 1988 and shall come into operation as follows—

(*a*) regulations 1 and 13 on 5th September 1988;

(*b*) regulations 2 to 12, 14 to 16 and 18 to 25 on 12th September 1988;

(*c*) regulations 17, 26 and 27 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*) in the definition of "benefit week" at the end there shall be added "and for the purposes of calculating any payment of income and of regulation 74(2)(*a*) "benefit week" shall also mean the period of 7 days ending on the day before the first day of the first benefit week following the date of claim or the last day on which income support is paid if it is in payment for less than a week";

(*b*) after the definition of "employed earner" there shall be inserted the following definition—

(**a**) S.I. 1986/1888 (N.I. 18); Article 22(1A) was inserted by paragraph 16 of Schedule 4 to the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2)); 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 and 274

" "employment" except for the purposes of Article 21(3)(*d*) of the Order, includes any trade, business, profession, office or vocation;'';

(*c*) for the definition of "residential accommodation'' there shall be substituted the following definition—

" "residential accommodation'' except in regulations 19 and 20 and paragraph 8(*c*)(i) of Schedule 5 has the meaning prescribed in regulation 21(3);''.

Amendment of regulation 5 of the principal regulations

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

''(6) For the purposes of this regulation, in determining the number of hours in which a person is engaged or treated as engaged in remunerative work, no account shall be taken of any hours in which the person is engaged in an employment or a scheme to which paragraph (*a*) to (*f*) of regulation 6 (persons not treated as engaged in remunerative work) applies.''.

Amendment of regulation 6 of the principal regulations

4. In regulation 6 of the principal regulations (persons not treated as engaged in remunerative work)—

(*a*) for ''remunerative work if — '' there shall be substituted ''remunerative work in so far as — '';

(*b*) in paragraph (*e*) after ''regulation 5(4)'' there shall be inserted ''and (5)''.

Amendment of regulation 18 of the principal regulations

5. In regulation 18(1) of the principal regulations (polygamous marriages) after sub-paragraph (*f*) there shall be added the following sub-paragraph—

''(*g*) any amount determined in accordance with regulation 17(1)(*f*) (applicable amounts).''.

Amendment of regulation 19 of the principal regulations

6. In regulation 19(2) of the principal regulations (persons in homes for persons in need and nursing homes) in the definition of ''home for persons in need''—

(*a*) the words from ''which provides'' to ''which is'' shall be omitted;

(*b*) at the beginning of paragraphs (*a*) and (*c*) there shall be inserted ''which provides residential accommodation with both board and personal care and is''; and

(*c*) after paragraph (*c*), there shall be added the following—

''and in paragraphs (*a*) and (*c*) of this definition ''personal care'' means personal care for persons in need of personal care by reason of age and infirmity, past or present mental disorder, past or present dependence on alcohol or drugs, mental handicap or physical disability."

Amendment of regulations 31 and 32 of the principal regulations

7. In regulations 31(2) and 32(4)(*a*) of the principal regulations (date on which income is treated as paid and calculation of weekly amount of income) after "unemployment benefit," in each of those provisions there shall be inserted "maternity allowance,".

Amendment of regulation 41 of the principal regulations

8. In regulation 41 of the principal regulations (capital treated as income) after paragraph (3) there shall be added the following paragraph—

"(4) In the case of a person to whom Article 21(3) of the Order (conditions of entitlement to income support) has effect as modified by Article 24A(*b*) of that Order(**a**) (effect of return to work), any amount by way of repayment of income tax deducted from his emoluments in pursuance of section 203 of the Income and Corporation Taxes Act 1988(**b**), shall be treated as income.".

Amendment of regulation 42 of the principal regulations

9. In regulation 42 of the principal regulations (notional income)—

(*a*) for paragraph (4) there shall be substituted the following paragraph—

"(4) Any payment of income, other than a payment of income made under the Macfarlane Trust or the Independent Living Fund, made—

(*a*) to a third party in respect of a single claimant or in respect of a member of the family (but not a member of the third party's family) shall be treated—

(i) in a case where that payment is derived from a payment of any benefit under the benefit Acts, a war disablement pension or a war widow's pension, as possessed by that single claimant, if it is paid to him, or by that member, if it is paid to any member of that family,

(ii) in any other case, as possessed by that single claimant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel, rent or rates for which housing benefit is payable, or any housing costs to the extent that they are met under regulations 17(1)(*e*) or 18(1)(*f*) (housing costs) or accommodation charge to the extent that it is met under regulation 19 or 20 (persons in homes for persons in need and nursing homes or in board and lodging accommodation and hostels), of that single claimant or, as the case may be, of any member of that family;

(*b*) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family;

(**a**) Article 24A was inserted by paragraph 18 of Schedule 4 to the Social Security (Northern Ireland) Order 1988

(**b**) 1988 c. 1

but, except where sub-paragraph (*a*)(i) applies and in the case of a person to whom Article 24 of the Order (trade disputes) applies, this paragraph shall not apply to any payment in kind.'';

(*b*) after paragraph (9) there shall be added the following paragraph—

''(10) In paragraph (4) ''ordinary clothing or footwear'' means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.''.

Amendment of regulation 48 of the principal regulations

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

(*a*) in paragraph (1) ''annual'' shall be omitted; and after ''applies'' there shall be inserted ''and paid at intervals of at least one year'';

(*b*) in paragraph (2) after ''(refund of tax in trade dispute cases)'' there shall be inserted ''or regulation 41(4) (capital treated as income)''.

Amendment of regulation 51 of the principal regulations

11. In regulation 51 of the principal regulations (notional capital)—

(*a*) for paragraph (3) there shall be substituted the following paragraph—

''(3) Any payment of capital, other than a payment of capital made under the Macfarlane Trust or the Independent Living Fund, made—

(*a*) to a third party in respect of a single claimant or in respect of a member of the family (but not a member of the third party's family) shall be treated—

(i) in a case where that payment is derived from a payment of any benefit under the benefit Acts, a war disablement pension or a war widow's pension, as possessed by that single claimant, if it is paid to him, or by that member if it is paid to any member of the family,

(ii) in any other case, as possessed by that single claimant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel, rent or rates for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 17(1)(*e*) and 18(1)(*f*) (housing costs) or accommodation charge to the extent that it is met under regulation 19 or 20 (persons in homes for persons in need and nursing homes or board and lodging accommodation and hostels), of that single claimant or, as the case may be, of any member of that family;

(*b*) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of the family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.'';

(*b*) after paragraph (7) there shall be added the following paragraph—

''(8) In paragraph (3) ''ordinary clothing or footwear'' means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.''.

Amendment of regulation 52 of the principal regulations

12. In regulation 52(1) of the principal regulations (capital jointly held) at the end there shall be added "and the foregoing provisions of this Chapter shall apply for the purposes of calculating the amount of capital which the claimant is treated as possessing as if it were actual capital which the claimant does possess".

Amendment of regulation 62 of the principal regulations

13. In regulation 62(2)(*g*) of the principal regulations (calculation of grant income) for "£210" there shall be substituted "£220".

Amendment of regulation 71 of the principal regulations

14. In regulation 71 of the principal regulations (applicable amounts in urgent cases)—

(*a*) in paragraph (1)(*a*)(iv) for "regulation 17(*e*) or 18(*f*) (housing costs)" there shall be substituted "regulation 17(1)(*e*) or, as the case may be, 18(1)(*f*) (housing costs)";

(*b*) in paragraph (1)(*d*) for head (iii) there shall be substituted the following—

"(iii) any amounts applicable under regulation 17(1)(*e*) or, as the case may be, 18(1)(*f*).".

Amendment of regulation 72 of the principal regulations

15. In regulation 72(2) of the principal regulations (assessment of income and capital in urgent cases) for "and 9(*b*)" there shall be substituted ", 9(*b*) and 31(**a**)".

Amendment of regulations 73 and 75 of the principal regulations

16. In regulations 73(3) and 75(*b*), (*e*) and (*f*) of the principal regulations (amount of income support payable and modifications in the calculation of income) after "unemployment benefit," in each of those provisions there shall be inserted "maternity allowance,".

Amendment of Schedule 1 to the principal regulations

17. In Schedule 1 to the principal regulations (persons not required to be available for employment) paragraph 15 (allowances under the Job Release Act 1977) shall be omitted.

Amendment of Schedule 2 to the principal regulations

18. In Schedule 2 to the principal regulations (applicable amounts) after "regulations 17" wherever it occurs in that Schedule there shall be inserted "(1)"; and—

(*a*) in paragraph 1 for "18(*a*)" there shall be substituted "18(1)(*a*)";

(*b*) in paragraph 2 for "18(*c*)" there shall be substituted "18(1)(*c*)";

(*c*) in paragraphs 3 and 4 for "and 18" wherever it occurs in those paragraphs there shall be substituted "and 18(1)";

(**a**) Paragraph 31 is inserted by regulation 25 of these regulations.