1988 No. 146

SOCIAL SECURITY

The Income Support (General) (Amendment) Regulations (Northern Ireland) 1988

Made	*8th April 1988*
Coming into operation . .	*11th April 1988*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 21(3)(*d*), (12)(*b*), (*d*) and (*k*), 22(1A), 23(1), (2), (4), (8) and (9) and 24(5A) 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) 1988 and shall come into operation on 11th April 1988.

(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*) for the definition of "dwelling occupied as the home" there shall be substituted the following definition—

" "dwelling occupied as the home" means the dwelling including any garage, garden and outbuildings normally occupied by the claimant as his home, together with—

(*a*) any agricultural land adjoining that dwelling; and

(*b*) any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately;";

(*b*) after the definition of "lone parent" there shall be inserted the following definition—

" "the Macfarlane Trust" means the charitable trust, established partly out of funds provided by the Secretary of State for Social Services to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;";

(a) S.I. 1986/1888 (N.I. 18); Articles 22(1A) and 24(5A) were inserted by paragraphs 16 and 17 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

(*c*) after the definition of "polygamous marriage" there shall be inserted the following definition—

" "premises" where it appears in Schedules 9 and 10 means a dwelling, including any garage, garden and out-buildings together with any agricultural land adjoining that dwelling and any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately;";

(*d*) in the definition of "relevant enactment" for "regulation 16(8)(*a*)" there shall be substituted "regulation 16(8)".

Amendment of regulation 4 of the principal regulations

3. In regulation 4(2)(*c*) of the principal regulations (temporary absence from Northern Ireland) after head (iv) there shall be added the following—

"or

(v) on the day on which the absence began he was, and had for the previous 28 weeks at least been, continuously incapable of work.".

Amendment of regulation 5 of the principal regulations

4. In regulation 5(4) of the principal regulations (persons treated as engaged in remunerative work) after "applies" there shall be inserted "or applied".

Amendment of regulation 6 of the principal regulations

5. In regulation 6(*e*) of the principal regulations (persons not treated as engaged in remunerative work) after "applies" there shall be inserted "or in respect of whom Article 21(3) of the Order (conditions of entitlement to income support) has effect as modified by Article 24A(*b*) of the Order(**a**) (effect of return to work)".

Amendment of regulation 8 of the principal regulations

6. In regulation 8 of the principal regulations (persons not required to be available for employment) after paragraph (2) there shall be added the following paragraph—

"(3) A person, other than one to whom regulation 10(1)(*h*) applies, to whom none of the provisions of Schedule 1 applies, shall, for any period when—

(*a*) he would, were he required to be available for employment, not be treated as so available under regulation 9(1); and

(*b*) the adjudication officer is satisfied that, unless income support is paid, the claimant or a member of his family (if any) will suffer hardship,

not be required to be available for employment.".

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

Amendment of regulation 10 of the principal regulations

7. In regulation 10(2) of the principal regulations (circumstances in which claimants are not to be treated as available for employment) for ''13'' wherever it appears there shall be substituted ''26''.

Amendment of regulation 16 of the principal regulations

8. In regulation 16 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 paragraph (1) for ''where any of them'' there shall be substituted ''notwithstanding that any of them'';

(*b*) in paragraph (2) after ''(housing costs)'' there shall be inserted ''unless that person has been a patient within the meaning of regulation 21(3) for a period in excess of 52 weeks and is not a member of a couple or of a polygamous marriage'';

(*c*) in paragraph (3)(*c*) for ''paragraph (*a*)'' there shall be substituted ''sub-paragraph (*a*) or (*b*)'';

(*d*) in paragraph (5)(*b*) for ''residential accommodation'' there shall be substituted ''accommodation provided under the provisions referred to in sub-paragraph (*a*) or (*b*) of the definition of residential accommodation in regulation 21(3)''.

Amendment of regulation 19 of the principal regulations

9. In regulation 19 of the principal regulations (applicable amounts for persons in homes for persons in need and nursing homes) for paragraph (1) there shall be substituted the following paragraphs—

''(1) Subject to regulation 22 (reductions in applicable amounts) where—

(*a*) the claimant lives in a home for persons in need or nursing home; or

(*b*) if the claimant is a member of a family, he and the members of his family live in such a home,

his weekly applicable amount shall, except in a case to which regulation 21 (special cases) or Part II of Schedule 4 (persons to whom regulation 19 does not apply) applies, be calculated in accordance with Part I of that Schedule.

(1A) For the purposes of paragraph (1)(*b*) a claimant and the members of his family are to be taken as living in a home for persons in need or nursing home even during periods when one or more members of the family are temporarily absent from the home but only if the claimant or his partner is living in the home during any such period.''.

Amendment of regulation 20 of the principal regulations

10. In regulation 20 of the principal regulations (applicable amounts for persons in board and lodging accommodation and hostels) for paragraph (1) there shall be substituted the following paragraphs—

''(1) Subject to regulation 22 (reductions in applicable amounts) where—

(*a*) the claimant lives in board and lodging accommodation or a hostel; or

(*b*) if the claimant is a member of a family, he and the members of his family live in such accommodation,

his weekly applicable amount shall, except in a case to which regulation 21 (special cases) or Part II of Schedule 5 (persons to whom regulation 20 does not apply) applies, be calculated in accordance with Part I of that Schedule.

(1A) For the purposes of paragraph (1)(*b*) a claimant and the members of his family are to be taken as living in board and lodging accommodation or a hostel even during periods when one or more members of the family are temporarily absent from the accommodation but only if the claimant or his partner is living in the accommodation during any such period.''.

Amendment of regulation 22 of the principal regulations

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

(*a*) in paragraph (5) after ''8(2)'' there shall be inserted ''or (3)'';

(*b*) except where a person's applicable amount would otherwise be calculated subject to the modification made by regulation 8(3) of the Income Support (Transitional) Regulations (Northern Ireland) 1987(**a**) (treatment for income support purposes of periods relating to supplementary benefit), in paragraph (6) for ''13'' wherever it appears there shall be substituted ''26''.

Amendment of regulation 24 of the principal regulations

12. In regulation 24 of the principal regulations (treatment of charitable or voluntary payments)—

(*a*) in paragraph (1) the words from '', other than one'' to ''applies,'' shall be omitted;

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

''(5) This regulation shall not apply—

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

(*b*) to a payment—

(i) which is or is due to be made at regular intervals,

(ii) to which regulation 44(2) (modifications in respect of children and young persons) applies,

(iii) made under the Macfarlane Trust.''.

(**a**) S.R. 1987 No. 460

Substitution of regulation 27 of the principal regulations

13. For regulation 27 of the principal regulations (disregard of fractions) there shall be substituted the following regulation—

"*Rounding of fractions*

27. Where any calculation under this Part results in a fraction of a penny that fraction shall, if it would be to the claimant's advantage, be treated as a penny, otherwise it shall be disregarded.".

Amendment of regulation 31 of the principal regulations

14. In regulation 31(2) of the principal regulations (date on which income is treated as paid) for "it is paid" there shall be substituted "it is payable".

Amendment of regulation 32 of the principal regulations

15. In regulation 32 of the principal regulations (calculation of weekly amount of income)—

(*a*) in paragraph (1) "and regulation 34 (incomplete benefit weeks)" shall be omitted;

(*b*) in paragraph (4)(*a*) for "paid" there shall be substituted "payable".

Omission of regulation 34 of the principal regulations

16. Regulation 34 of the principal regulations (incomplete weeks of benefit) shall be omitted.

Amendment of regulation 35 of the principal regulations

17. In regulation 35(1)(*d*) of the principal regulations (earnings of employed earners) for the words from ", and for so long as" to the end of that sub-paragraph there shall be substituted "Article 24 of the Order (trade disputes) applies or in respect of whom Article 21(3) of the Order (conditions of entitlement to income support) has effect as modified by Article 24A(*b*) of the Order (effect of return to work),".

Amendment of regulation 41 of the principal regulations

18. In regulation 41(3) of the principal regulations (capital treated as income) for "and for so long as it applies" there shall be substituted "or in respect of whom Article 21(3) of the Order (conditions of entitlement to income support) has effect as modified by Article 24A(*b*) of the Order (effect of return to work)".

Amendment of regulation 42 of the principal regulations

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

(*a*) in paragraph (2) for "it would be so acquired" there shall be substituted "it could be expected to be acquired were an application made";

(*b*) in paragraph (4)—

(i) at the beginning for "Any payment of income" there shall be substituted "Any payment of income, other than a payment of income made under the Macfarlane Trust,",