1988 No. 132

SOCIAL SECURITY

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

Made	*1st 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 84(1) of the Social Security (Northern Ireland) Order 1986(**a**) and of all other powers enabling it in that behalf, by this statutory rule which contains only provisions consequential on Articles 21 to 24 and 52 of that Order and regulations made under those Articles in their application to income support and is made before the end of a period of 12 months from the commencement of those Articles, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Income Support (Transitional) (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 (Transitional) Regulations (Northern Ireland) 1987(**b**).

Insertion of regulation 4A in the principal regulations

2. After regulation 4 of the principal regulations (deeming of claims for income support by former beneficiaries) there shall be inserted the following regulation—

"Payments on account of income support

4A.—(1) Where, by virtue of regulation 4 (deeming of claims for income support by former beneficiaries), a person's entitlement to income support, for a period commencing in the week beginning 11th April 1988, falls to be determined as if a claim for it had been duly made and no determination has been made by that date, the Department may make a payment on account of income support and the amount of such payment shall be offset by the adjudicating authority in reduction of any income support, any transitional payment of income support under regulation 7 (transitional payments for former beneficiaries) and any addition under Part III, subsequently awarded.

(2) Where a payment on account has been made under paragraph (1) and the adjudicating authority determines that there is no entitlement to

(a) S.I. 1986/1888 (N.I. 18)
(b) S.R. 1987 No. 460

income support, or that the entitlement is less than the amount of the payment on account, that authority shall determine the amount of the overpayment.

(3) The amount of any overpayment determined under paragraph (2) shall be recoverable by the Department by the same procedures and subject to the same conditions as if it were recoverable under Article 54(1) of the Order (overpayments).

(4) A payment on account under this regulation may be made by means of an instrument of payment or such other means as appears to the Department to be appropriate in the circumstances of any particular case and, notwithstanding the repeal of any enactment, may be made by an instrument of payment or book of serial orders issued for the purpose of paying supplementary benefit.".

Amendment of regulation 5 of the principal regulations

3. In regulation 5 of the principal regulations (questions deemed to have been determined and treatment of income) at the end there shall be added the following paragraph—

"(6) For the purposes of determining a claimant's entitlement to income support for a period commencing on or after 11th April 1988, regulation 43 of the General Regulations (notional earnings of seasonal workers) shall apply for the purposes of determining a person's earnings in the period of his off-season or last period of normal employment beginning before that date as if that regulation and Parts IV and V of the General Regulations (applicable amounts and income and capital) were in operation throughout that period.".

Insertion of regulation 7A in the principal regulations

4. After regulation 7 of the principal regulations (transitional payments for former beneficiaries) there shall be inserted the following regulation—

"Transitional payments for persons claiming supplementary benefit

7A.—(1) Except where regulation 7 applies (transitional payments for former beneficiaries), where a person makes a claim for supplementary benefit in the week commencing 4th April 1988 and, but for regulation 7(1)(*a*) of the Supplementary Benefit (Determination of Questions) Regulations (Northern Ireland) 1980(**a**) (date of commencement of entitlement), he would have been entitled to supplementary benefit for a week beginning with the day on which the claim is made, he shall, if—

(*a*) he is entitled to income support on the first day of his second benefit week; and

(*b*) he is a person to whom income support is payable in arrears,

be entitled to a transitional payment of income support in respect of a period of, or as the case may be, 2 or 3 consecutive periods of 7 days determined in accordance with paragraph (2).

(a) S.R. 1980 No. 423; the relevant amending regulations are S.R. 1981 No. 215

(2) For the purposes of paragraph (1)—

(*a*) in the case of an unemployed person where the day specified for the purpose of his claiming unemployment benefit under regulation 14 of, and Schedule 2 to, the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(**a**) falls on 8th or 9th April 1988, the transitional payment shall be in respect of 3 consecutive periods of 7 days commencing with the first day of the second benefit week;

(*b*) in the case of any other unemployed person, the transitional payment shall be in respect of 2 consecutive periods of 7 days commencing with the first day of his second benefit week;

(*c*) in any other case, the transitional payment shall be in respect of the period of 7 days commencing with the first day of his second benefit week.

(3) Subject to paragraph (4), the amount of the transitional payment in respect of any such period shall be equal to the amount of income support payable in arrears for the benefit week or, in the case of a claimant whose entitlement to income support is for a period of less than a benefit week, the amount which would have been payable had he been entitled to income support for the benefit week, commencing in the same calendar week as the period of 7 days in respect of which the transitional payment is made.

(4) Where a person is entitled to income support for a period falling before the first day of his second benefit week, the amount of the transitional payment shall be reduced by the amount of income support payable for that period.

(5) The transitional payment shall be made in advance and, in a case to which paragraph (2)(*a*) or (*b*) applies, the transitional payment may be made in 2 or, as the case may be, 3 instalments if it appears to the Department to be appropriate in the circumstances of the particular case.

(6) In calculating the income of a person entitled to a transitional payment under this regulation for the purpose of determining his entitlement to income support in respect of any day for which income support becomes payable to him in arrears there shall be disregarded any transitional payment payable to him under this regulation.

(7) Where a person is entitled to a transitional payment under this regulation or, but for his being a person to whom income suport is payable in advance, would have been so entitled, Part III shall apply to him—

(*a*) as if he were a former beneficiary who had been entitled to supplementary benefit in the first benefit week; and

(*b*) as if that benefit week began on the day on which the claim for supplementary benefit was made.

(8) Where paragraph (7) applies, the amount of supplementary benefit to which that person is, for the purposes of Part III, to be treated as

(a) S.R. 1977 No. 351; the relevant amending regulations are S.R. 1983 No. 36, S.R. 1985 No. 226 and S.R. 1986 No. 157

entitled shall be equal to the amount which would have been payable in the first benefit week had he been entitled to supplementary benefit for that week.".

Amendment of regulation 9 of the principal regulations

5. In regulation 9 of the principal regulations (total benefit income)—

(*a*) in paragraph (2) at the end there shall be added "but this paragraph shall not apply where the change of circumstances is the admission to hospital of the person in his second benefit week";

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

"(9) For the purposes of paragraph (1)(*a*) or (6)(*a*), where a claimant is a person to whom regulation 8 of the Requirements Regulations or regulation 22 of the General Regulations (reductions in certain cases of unemployment benefit disqualification) applies, the amount of supplementary benefit or income support to be taken into account shall be the amount to which the claimant would have been entitled but for that regulation.".

Amendment of regulation 11 of the principal regulations

6. In regulation 11(2) of the principal regulations (special provisions for patients) at the end there shall be added "and the amount of his partner's total benefit income in his partner's second benefit week".

Amendment of regulation 12 of the principal regulations

7. In regulation 12 of the principal regulations (special provisions for persons in board and lodging accommodation and hostels)—

(*a*) in paragraph (1) for "a period of less than 13 weeks which includes his first and second benefit weeks" there shall be substituted "a period not exceeding 13 weeks which includes his first or second benefit week (or both)";

(*b*) in paragraph (4) after "Regulation 14(3)" there shall be inserted "and (4)".

Amendment of regulation 13 of the principal regulations

8. In regulation 13 of the principal regulations (special provisions for persons in homes for persons in need and nursing homes)—

(*a*) in paragraph (3) after "paragraph (2)" there shall be inserted ", (6) or (8)";

(*b*) in paragraph (4)—

(i) the words "except in the circumstances specified in paragraph 14 or 16 of column (1) of Schedule 7 to the General Regulations (applicable amounts in special cases)" shall be omitted,

(ii) at the end there shall be added "except where he ceases or, as the case may be, he and his family cease, to reside in the home in the circumstances specified in paragraph 14 or 16 of column (1) of Schedule 7 to the General Regulations (applicable amounts in special cases) and he intends or, as the case may be, they intend to return to the home";