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1987 No. 466

SOCIAL SECURITY

The Social Security (Adjudication) (Amendment No. 2) Regulations (Northern Ireland) 1987

Made	*21st December 1987*
Coming into operation—	
for the purposes only of the determination of claims and questions relating to—	
income support	*21st December 1987*
family credit	*1st January 1988*
for all other purposes	*11th April 1988*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers set out in the Schedule 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 Social Security (Adjudication) (Amendment No. 2) Regulations (Northern Ireland) 1987 and shall come into operation—

(*a*) for the purposes only of the determination of claims and questions relating to—

(i) income support on 21st December 1987;

(ii) family credit on 1st January 1988;

(*b*) for all other purposes on 11th April 1988.

(2) In these regulations "the principal regulations" means the Social Security (Adjudication) Regulations (Northern Ireland) 1987(**a**).

(3) The Interpretation Act (Northern Ireland) 1954(**b**) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendment of regulation 1 of the principal regulations

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

(*a*) in paragraph (2)—

(i) in the definition of "the Acts", the references to the Family Income Supplements Act (Northern Ireland) 1971 and the Supplementary Benefits (Northern Ireland) Order 1977 shall be omitted;

(**a**) S.R. 1987 No. 82, to which there are amendments not relevant to these regulations
(**b**) 1954 c. 33 (N.I.)

(ii) in the definition of "claimant", after "a beneficiary under the award or" there shall be inserted "a person";

(iii) after the definition of "full-time chairman" there shall be inserted the following definition—

" "income support" means income support under Part III of the 1986 Order and includes personal expenses addition, special transitional addition and transitional addition as defined in the Income Support (Transitional) Regulations (Northern Ireland) 1987(**a**);";

(iv) in the definition of "party to the proceedings" in sub-paragraph (*a*) the words in parenthesis shall be omitted and for sub-paragraph (*d*) there shall be substituted the following sub-paragraph—

"(*d*) in any other proceedings, the adjudication officer and the Department except in proceedings in which the adjudication officer or the Department is the adjudicating authority;";

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

"(3) Where, by any provision of the Acts or of these regulations—

(*a*) any notice or other document is required to be given or sent to any office, that notice or document shall be treated as having been so given or sent on the day that it is received in that office; and

(*b*) any notice or other document is required to be given or sent to any person, that notice or document shall, if sent by post to that person's last known or notified address, be treated as having been given or sent on the day that it was posted.".

Amendment of regulation 19 of the principal regulations

3. In regulation 19 of the principal regulations (other questions for determination by the Department)—

(*a*) in paragraph (1)(*c*) the words from "section 80" to "Order 1975 or" shall be omitted;

(*b*) after paragraph (1) there shall be inserted the following paragraph—

"(1A) The Department may review any determination given by it on any question referred to in paragraph (1) if—

(*a*) new facts have been brought to its notice; or

(*b*) it is satisfied that the determination—

(i) was given in ignorance of some material fact;

(ii) was based on a mistake as to some material fact; or

(iii) was erroneous in point of law.".

Amendment of regulation 20 of the principal regulations

4. Paragraph (3) of regulation 20 of the principal regulations (notification of decisions) shall be omitted.

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

Amendment of regulation 31 of the principal regulations

5. In paragraph (4) of regulation 31 of the principal regulations (medical appeal tribunals), the words from "in such form" to "the Department" shall be omitted.

Substitution of Part IV Section C of the principal regulations

6. For Part IV Section C of the principal regulations there shall be substituted the following—

"SECTION C — INCOME SUPPORT

Notification of decisions in income support cases

63.—(1) Subject to paragraphs (2), (3) and (4), the decision of an adjudication officer on any claim or question relating to income support shall be notified in writing to the claimant who shall at the same time be notified of his right to request a statement of the reasons for that decision and of his right to appeal to an appeal tribunal.

(2) Where, under arrangements made by the Department, income support is payable together with a benefit under the 1975 Act(**a**), notice of the aggregate amount so payable shall be notice for the purpose of paragraph (1).

(3) Written notice shall not be required of a determination awarding income support which is implemented by a cash payment if in all the circumstances it would be impracticable to give such a notice.

(4) Written notice shall not be required of a determination terminating entitlement to income support if the reason for the termination is already known to the claimant or it is otherwise reasonable in the circumstances not to give such a notice.

(5) So far as may be practicable, and subject to paragraph (6), where a claimant is notified of a decision under paragraph (1) or (2) the Department shall also give or send him a written notice of assessment showing—

(*a*) the total amounts of the personal allowances, family premium, other premiums and housing costs determined under Part IV of the Income Support (General) Regulations (Northern Ireland) 1987(**b**) as are appropriate in his case;

(*b*) the income taken into account; and

(*c*) any personal expenses addition, special transitional addition and transitional addition payable under the Income Support (Transitional) Regulations (Northern Ireland) 1987.

(6) Paragraph (5) shall not apply to any determination—

(*a*) that income support is not payable for any reason other than that the claimant's income exceeds the applicable amount;

(**a**) *See* also Article 2(3) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15))

(**b**) S.R. 1987 No. 459

(*b*) made on review under regulation 69, either under paragraph (3) of that regulation or where in other cases under that regulation the Department considers a written notice of assessment unnecessary;

(*c*) in respect of a claimant to whom Article 24(8) of the 1986 Order (return to work after trade dispute) applies.

(7) If, within the time limited by regulation 3 and Schedule 2 for the bringing of an appeal against an adjudication officer's decision, the claimant requests a statement of the reasons for that decision he shall be given such a statement in writing and shall again be informed of his right of appeal.

Income support and social fund questions not immediately determinable

64.—(1) Where on consideration of a claim or question relating to income support or to payment of maternity expenses from the social fund under Part IV of the 1986 Order it appears to an adjudication officer that the claimant's entitlement to, or the rate or amount of, such benefit depends on the determination of any of the questions mentioned in paragraph (3), and he is satisfied that the question cannot be immediately determined, he shall proceed to determine the claim or question on the assumption that the determination of the question so mentioned will be adverse to the claimant.

(2) Without prejudice to the power of an adjudication officer to refer any claim or question to an appeal tribunal under section 99(2) of the 1975 Act(**a**), and notwithstanding the provisions of section 100 of that Act(**a**), on an appeal to an appeal tribunal in any case where the adjudication officer has applied the provisions of paragraph (1) in respect of any of the questions mentioned in paragraph (3), the tribunal shall not determine the last mentioned question until it has been determined by an adjudication officer.

(3) The questions referred to in paragraphs (1) and (2) are—

(*a*) whether in relation to any person the applicable amount falls to be reduced or disregarded to any extent by virtue of Article 24(3) of the 1986 Order (persons affected by trade disputes);

(*b*) whether regulation 22 of the Income Support (General) Regulations (Northern Ireland) 1987 (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification) applies to a person by virtue of paragraph (4)(*c*)(iii) of that regulation and, if so, the period of its application by virtue of paragraph (6)(*c*) of that regulation;

(*c*) whether by virtue of regulation 9(1) of the Income Support (General) Regulations (Northern Ireland) 1987 (persons treated as available for employment) a person is to be treated as available for employment and whether by virtue of regulation 10(1)(*b*), (*d*) or (*g*) of those regulations he is not to be so treated;

(**a**) 1975 c. 15; section 99(2) was substituted by paragraph 4 of Schedule 5 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)) and section 100 was amended by paragraph 5 of Schedule 5 to that Order