1987 No. 460

SOCIAL SECURITY

The Income Support (Transitional) Regulations (Northern Ireland) 1987

Made . . . . . *21st December 1987*
Coming into operation . . *28th December 1987*

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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:

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Income Support (Transitional) Regulations (Northern Ireland) 1987 and shall come into operation on 28th December 1987.

Interpretation

2.—(1) In these regulations—

"the Order" means the Social Security (Northern Ireland) Order 1986;

"adjudicating authority" means any person or body with responsibility under the Social Security (Northern Ireland) Acts 1975 to 1986(**b**), and regulations made thereunder, for the determination of claims for any benefit under those enactments and questions arising in connection with a claim for, or award of, or disqualification for receiving such benefit;

"benefit week"—

(*a*) in relation to supplementary benefit, has the meaning given to it in regulation 7 of the Supplementary Benefit (Determination of Questions) Regulations (Northern Ireland) 1980(**c**);

(*b*) in relation to income support, has the meaning given to it by paragraph 4 of Schedule 7 to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**d**);

"domestic assistance addition" means an additional requirement under paragraph 14 of Schedule 3 to the Requirements Regulations;

"first benefit week" means the benefit week beginning on a day during the period of 7 days commencing on 4th April 1988;

"former beneficiary" means a person who, for a period immediately preceding 11th April 1988, is entitled to supplementary benefit;

(**a**) S.I. 1986/1888 (N.I. 18)
(**b**) *See* Article 1(2) of the Social Security (Northern Ireland) Order 1986
(**c**) S.R. 1980 No. 423; the relevant amending regulations are S.R. 1981 No. 215, S.R. 1982 No. 295, S.R. 1983 No. 290 and S.R. 1984 No. 174
(**d**) S.R. 1987 No. 465

"former housing benefit supplement recipient" means a person in respect of whom an amount is applicable under regulation 19A of the Requirements Regulations for a period immediately preceding 4th April 1988;

"General Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**a**);

"income support" means income support under Part III of the Order;

"patient" has the same meaning as in regulation 21(3) of the General Regulations;

"personal expenses addition" means an amount of income support payable in accordance with regulation 13 in addition to any income support to which a person may be entitled under Part III of the Order;

"Requirements Regulations" means the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983(**b**);

"second benefit week" means the benefit week beginning on a day during the period of 7 days commencing on 11th April 1988;

"special transitional addition" means an amount of income support payable in accordance with regulation 15 in addition to any income support to which a person may be entitled under Part III of the Order;

"supplementary benefit" means a supplementary pension or allowance under the Supplementary Benefits (Northern Ireland) Order 1977(**c**);

"transitional addition" means an amount of income support payable in accordance with regulations 10 to 13 in addition to any income support to which a person may be entitled under Part III of the Order;

"unemployed person" means a person who is, or is required to be, available for employment;

and other expressions have the same meaning as in the General Regulations.

PART II

TRANSITIONAL ARRANGEMENTS

Claims for income support made before 11th April 1988

3.—(1) A claim for income support may be made on or after 14th March 1988 and before 11th April 1988, and a claim for supplementary benefit made during that period may be treated in addition as a claim for income support.

(2) Paragraph (1) and regulation 4 (deeming of claims for income support by former beneficiaries) shall not apply in the case of a person affected by a trade dispute (that is to say a person in respect of whom the applicable amount or a proportion of the applicable amount falls to be disregarded by virtue of Article 24 of the Order).

(a) S.R. 1987 No. 459

(b) S.R. 1983 No. 61; as amended by S.R. 1983 Nos. 215 and 291, S.R. 1984 Nos. 79 and 278, S.R. 1985 No. 336, S.R. 1986 Nos. 236 and 240 and S.R. 1987 No. 5

(c) S.I. 1977/2156 (N.I. 27); provisions of the Supplementary Benefits (Northern Ireland) Order 1977, as amended by Article 7 of, and Part I of Schedule 2 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)), are set out in Part II of that Schedule

(3) Subject to the provisions of this regulation, any claim for income support made or treated as made in accordance with paragraph (1) may be determined before 11th April 1988 in accordance with the Order and regulations made under the Order as if those provisions were in operation.

(4) Any claim made or treated as made in accordance with paragraph (1) shall be treated as made for a period commencing on 11th April 1988.

(5) A decision which is given awarding income support on such a claim as is referred to in paragraph (1)—

(*a*) may award the benefit from 11th April 1988 if it appears probable that the conditions for entitlement to income support for the person who made that claim will be satisfied;

(*b*) shall be subject to the conditions for entitlement being so satisfied on the date from which the benefit is awarded;

(*c*) may be reviewed if any question arises as to the satisfaction of those conditions.

Deeming of claims for income support by former beneficiaries

4.—(1) Notwithstanding the provisions of section 154A of the principal Act(**a**), but subject to regulation 3(2) (persons affected by a trade dispute), in the case of a former beneficiary or a former housing benefit supplement recipient it shall not be a condition of entitlement to income support for a period commencing in the week beginning 11th April 1988 that he makes a claim for such benefit and the provisions of the Order and regulations made thereunder shall apply, subject to the following provisions of this Part, as if a claim for that benefit had been duly made by the former beneficiary or the former housing benefit supplement recipient in respect of a period commencing on the first day of his second benefit week.

(2) Where by virtue of paragraph (1) a person's entitlement to income support falls to be determined as if a claim for it had been duly made, the claimant's entitlement in respect of a period commencing in the week beginning 11th April 1988 may nevertheless be determined at an earlier date if the claimant is entitled to supplementary benefit at the date of the determination; and any such claim shall be determined in accordance with the Order and regulations made under the Order as if those provisions were in operation.

(3) A decision which is given awarding income support on a determination made under this regulation—

(*a*) may award the benefit from the first day of his second benefit week if it appears probable that the conditions for entitlement to income support will be satisfied;

(*b*) shall be subject to the conditions for entitlement being so satisfied on the date from which the benefit is awarded;

(*c*) may be reviewed if any question arises as to the satisfaction of those conditions.

(a) Section 154A was inserted by Article 17 of the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), and was substituted by paragraph 56 of Schedule 9, and applied to income support by paragraph 32 of that Schedule to the Social Security (Northern Ireland) Order 1986

Questions deemed to have been determined and treatment of income

5.—(1) Where, for a period commencing on or after 11th April 1988, it appears that the entitlement of a former beneficiary to income support, or the amount of such benefit to which he is entitled, depends upon the determination of any question by an adjudicating authority and such a question has been so determined in respect of that former beneficiary's entitlement to supplementary benefit immediately before 11th April 1988, that question shall be deemed to have been so determined for the purposes of the said entitlement to income support.

(2) For the purposes of determining a claimant's entitlement to income support for a period commencing on or after 11th April 1988, any earnings paid before that date on the termination or interruption of—

(*a*) the claimant's employment shall be taken into account in accordance with Part V of the General Regulations (income and capital) as if that Part were in operation at the date of the termination or interruption of the employment and, except in the case of a claimant who was not treated as engaged in remunerative full-time work within the meaning of regulation 9(1)(*a*) of the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1981(**a**) (circumstances in which persons are to be treated as engaged in remunerative full-time work), the claimant shall be treated as being engaged in remunerative work for that part of the period (if any), falling on or after 11th April 1988, for which those earnings are to be taken into account;

(*b*) the employment of the partner of a former beneficiary, except where the partner was engaged in that employment for less than 30 hours per week, shall notwithstanding the revocation of the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984(**b**), be taken into account in accordance with those regulations as if they were still in operation.

(3) Except in the case of earnings to which paragraph (2) applies or would, but for the exception specified in sub-paragraph (*b*) thereof, apply, where in the case of a former beneficiary to whom regulation 4 applies a payment of income would, but for this paragraph, fall to be treated as paid under regulation 31(1)(*a*) of the General Regulations (date on which income is treated as paid) before the first day of the benefit week in which he is first entitled to income support, that payment shall be treated as paid on that day and any part of the payment which has been taken into account in determining the former beneficiary's entitlement to supplementary benefit shall, notwithstanding Part V of the General Regulations, be disregarded in determining his entitlement to income support.

(4) Where an adjudicating authority has determined that payment of an amount of supplementary benefit awarded to a former beneficiary for a period immediately preceding 11th April 1988 should be paid to another person or body, such determination shall be deemed also to have been made for the purposes of income support to which the former beneficiary is entitled on or after 11th April 1988.

(a) S.R. 1981 No. 371
(b) S.R. 1984 No. 54