

1988 No. 431

SOCIAL SECURITY

**The Income Support (General) (Amendment No. 5)
Regulations (Northern Ireland) 1988**

Made 9th December 1988

Coming into operation—

<i>regulations 1, 2(b) and (c), 3 to 13, 15(b), 16 and 18 to 21</i>	<i>12th December 1988</i>
<i>regulations 2(a), 14, 15(a) and 17</i>	<i>10th April 1989</i>

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(3)(d) and (12)(d) 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. 5) Regulations (Northern Ireland) 1988 and shall come into operation as follows—

(a) regulations 1, 2(b) and (c), 3 to 13, 15(b), 16 and 18 to 21 on 12th December 1988;

(b) regulations 2(a), 14, 15(a) and 17 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) after the definition of “benefit week” there shall be inserted the following definition—

“ “board and lodging accommodation” means—

(a) accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises; or

(a) S.I. 1986/1888 (N.I. 18); 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, 274 and 318

(b) accommodation provided to a person in an hotel, guest house, lodging house or some similar establishment, except accommodation provided by a close relative of his or of any other member of his family, or other than on a commercial basis;"

(b) after the definition of "close relative" there shall be inserted the following definition—

“ “community charge rebate” means a rebate under the provisions of section 24(a) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(a);”

(c) for the definition of "polygamous marriage" there shall be substituted the following definition—

“ “polygamous marriage” means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;”

Amendment of regulation 5 of the principal regulations

3. In regulation 5(5) of the principal regulations (persons treated as engaged in remunerative work) for "payable" there shall be substituted "paid".

Omission of regulation 24 of the principal regulations

4. Regulation 24 of the principal regulations (treatment of charitable or voluntary payments) shall be omitted.

Amendment of regulation 28 of the principal regulations

5. In regulation 28(2) of the principal regulations (calculation of income) "24 and" and "treatment of charitable or voluntary payments," shall be omitted.

Amendment of regulation 29 of the principal regulations

6. In regulation 29 of the principal regulations (calculation of earnings derived from employed earner's employment and income other than earnings)—

(a) in paragraph (1) "Except where regulation 33 (weekly amount of charitable or voluntary payment) applies," shall be omitted;

(b) in paragraph (2) for "paragraph (3)" there shall be substituted "paragraphs (3) and (4A)";

(c) after paragraph (4) there shall be inserted the following paragraph—

“(4A) Where earnings to which regulation 35(1)(b) to (d) (earnings of employed earners) applies are paid in respect of part of a day, those earnings shall be taken into account over a period equal to a day.”

(a) 1987 c. 47; section 24 was amended by paragraph 32 of Schedule 12 to the Local Government Finance Act 1988 (c. 41)

Omission of regulation 33 of the principal regulations

7. Regulation 33 of the principal regulations (weekly amount of charitable or voluntary payment) shall be omitted.

Amendment of regulation 40 of the principal regulations

8. In regulation 40(1) of the principal regulations (calculation of income other than earnings) "24(3)," and "treatment of charitable and voluntary payments," shall be omitted.

Amendment of regulation 46 of the principal regulations

9. In regulation 46(1) of the principal regulations (calculation of capital) for the words from "regulations 24(2) and 48" to the end there shall be substituted "regulation 48 (income treated as capital).".

Amendment of regulation 48 of the principal regulations

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

- (a) in paragraph (4) for "or 12" there shall be substituted " , 12 or 25 to 28"; and
- (b) after paragraph (8) there shall be added the following paragraphs—
 - "(9) Any charitable or voluntary payment which is not made or not due to be made at regular intervals, other than one to which paragraph (10) applies, shall be treated as capital.
 - (10) This paragraph applies to a payment—
 - (a) which is made to a person to whom Article 24 of the Order (trade disputes) applies or in respect of whom Article 21(3) (conditions of entitlement to income support) has effect as modified by Article 24A(b) of the Order(a) (effect of return to work) or to a member of the family of such a person;
 - (b) to which regulation 44(2) (modifications in respect of children and young persons) applies; or
 - (c) which is made under the Macfarlane Trust or the Independent Living Fund."

Amendment of regulation 51 of the principal regulations

11. In regulation 51(1) of the principal regulations (notional capital) at the end there shall be added "except where that capital is derived from a payment made in consequence of any personal injury and is placed on trust for the benefit of the claimant."

Amendment of regulation 53 of the principal regulations

12. In regulation 53(3) of the principal regulations (calculation of tariff income from capital) "24(2)," and "charitable or voluntary payments," shall be omitted.

(a) Article 24A was added by paragraph 18 of Schedule 4 to the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2))

Amendment of regulation 72 of the principal regulations

13. In regulation 72 of the principal regulations(a) (assessment of income and capital in urgent cases)—

- (a) in paragraph (1)(a) after “Independent Living Fund” there shall be inserted “or income to which paragraph 5, 40, 42 or 44 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) applies”;
- (b) in paragraph (1)(c) for “regulations 24(1) and (2) (treatment of charitable or voluntary payments) and 48(1), (2) and (3)” there shall be substituted “regulation 48(1), (2), (3) and (9)”;
- (c) in paragraph (2) for “, 7, 9(b) and 31 of Schedule 10” there shall be substituted “and, except to the extent that the arrears referred to in paragraph 7 consist of arrears of housing benefit payable under Part III of the Order or Article 3 of the Housing Benefits (Northern Ireland) Order 1983(b), 7, 9(b), 19, 30 and 32 of Schedule 10”.

Amendment of Schedule 1 to the principal regulations

14. In Schedule 1 to the principal regulations (persons not required to be available for employment)—

- (a) for paragraph 5 there shall be substituted the following paragraph—

“5. A person who provides evidence of incapacity in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(c) (evidence of incapacity for work and confinement) in support of a claim for sickness benefit, invalidity pension or severe disablement allowance within the meaning of section 14, 15 or 36 of the principal Act, provided that an adjudication officer has not determined that that person is not incapable of work, or a person who is in receipt of statutory sick pay within the meaning of Part II of the Social Security (Northern Ireland) Order 1982(d).”;
- (b) in paragraph 13 for “who is within 10 years of attaining pensionable age and” there shall be substituted “aged not less than 50 who”;
- (c) in paragraph 22 (e) for “abroad” there shall be substituted “not present in the United Kingdom”.

Amendment of Schedule 2 to the principal regulations

15. In Schedule 2 to the principal regulations (applicable amounts) in paragraph 12—

- (a) for sub-paragraph (1)(b) there shall be substituted the following—

“(b) the circumstances of the claimant fall and have fallen, in respect of a continuous period of not less than 28 weeks, within paragraph 5 of Schedule 1 or, if he was in Great Britain for the

(a) See S.R. 1988 No. 205 regulation 6 and S.R. 1980 No. 318 regulation 15

(b) S.I. 1983/1121 (N.I. 14)

(c) S.R. 1976 No. 175; the relevant amending regulations are S.R. 1982 No. 153 and S.R. 1987 No. 117

(d) S.I. 1982/1084 (N.I. 16)

(e) See S.R. 1988 No. 274 regulation 7

whole or part of that period, within one or more comparable Great Britain provisions;”;

- (b) after sub-paragraph (4) there shall be added the following sub-paragraph—

“(5) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a claimant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 3 of the Employment and Training Act (Northern Ireland) 1950(a).”.

Amendment of Schedule 3 to the principal regulations

16. In Schedule 3 to the principal regulations (housing costs)—

- (a) in paragraph 1 after sub-paragraph (a) there shall be inserted the following sub-paragraph—

“(aa) interest payments under a hire purchase agreement to buy the dwelling occupied as the home;”;

- (b) in paragraph 7(3) for “(4) to (6)” there shall be substituted “(3A) to (6)”;

- (c) after paragraph 7(3) there shall be added the following sub-paragraph—

“(3A) For the purpose of this paragraph any reference to a loan includes a reference to payments specified in paragraph 1(aa).”;

- (d) in paragraph 7(4) after “Subject to sub-paragraphs” there shall be inserted “(3A),”;

- (e) in paragraph 7(5), (6) and (7) for “sub-paragraph (3)” in each place it occurs there shall be substituted “sub-paragraphs (3) and (3A)”;

- (f) in paragraph 8(4) for “or 20” there shall be substituted “, 20 or 22 to 34”.

Amendment of Schedule 3A to the principal regulations

17. In Schedule 3A to the principal regulations (b) (protected sum)—

- (a) in paragraph 1(1) in the definition of “eligible housing benefit” at the end there shall be added “which relates to the board and lodging accommodation normally occupied as the home by him or, if he has a partner, by him and his partner”;

- (b) in paragraph 1(2)(b) at the beginning there shall be inserted “except in so far as it relates to any temporary absence to which paragraph 7(7) refers,”;

- (c) in paragraph 3—

(i) the existing provision shall be numbered sub-paragraph (1),

(ii) after sub-paragraph (1) there shall be added the following sub-paragraphs—

(a) 1950 c. 29 (N.I.)

(b) See S.R. 1988 No. 318 regulation 26, Schedule 1 paragraph 16 and Schedule 2

“(2) A protected sum shall not be applicable to a claimant where he, or any partner of his, has not made or is not treated as having made a claim for housing benefit under regulation 72 of the Housing Benefit (General) Regulations (Northern Ireland) 1987(a) (time and manner in which claims are to be made) for the period of 7 consecutive days beginning on and including 10th April 1989 in respect of the board and lodging accommodation normally occupied as the home by him or, if he has a partner, by him and his partner.

(3) Subject to paragraph 7, a protected sum shall not be applicable to a claimant where he changes or vacates his accommodation during the period of 7 consecutive days beginning on and including 10th April 1989.”;

- (d) in paragraph 6(b) for “leaves” there shall be substituted “vacates”;
- (e) in paragraph 7(1)(b)(i) after “by reason of” there shall be inserted “age and infirmity.”;
- (f) in paragraph 7(4)(c) for “(i) and (iii)” there shall be substituted “(i) to (iii)”;
- (g) for paragraph 7(7) there shall be substituted the following—

“(7) Where a protected person or any partner of his is temporarily absent from his accommodation for a period not exceeding 13 weeks which includes the first week, on the protected person’s or, as the case may be, his partner’s return to that accommodation he shall be entitled to a protected sum equal to the difference between—

- (a) the amount which would have fallen to be calculated under regulation 20 as his applicable amount for the first week if he or, as the case may be, his partner had been living in that accommodation, without regard to any temporary absence, and any eligible housing benefit for the period beginning on and including 3rd April 1989; and, if less,
- (b) either—
 - (i) if the full charge is made for the accommodation during the temporary absence, his applicable amount in the first complete week after he or, as the case may be, his partner has returned to the accommodation and any eligible housing benefit for the period beginning on and including 10th April 1989, or
 - (ii) if no charge or a reduced charge is made for the accommodation during the temporary absence, his applicable amount in the first week after he or, as the case may be, his partner has returned to the accommodation and the amount of any housing benefit in respect of that accommodation to which he or his partner was entitled in the period of 7 consecutive days beginning on the date determined in accordance with regulation 65 of the Housing Benefit (General) Regulations (Northern Ireland) 1987 (date on which entitlement is to commence)

or, as the case may be, regulation 68(2) of those regulations (date on which change of circumstances is to take effect) following his return to the accommodation.”.

Amendment of Schedule 4 to the principal regulations

18. In Schedule 4 to the principal regulations (applicable amounts of persons in homes for persons in need and nursing homes)—

- (a) in paragraph 1(1)(c) for “17(1)(e) or 18(1)(f)” there shall be substituted “regulation 17(1)(e) or 18(1)(f)”;
- (b) in paragraph 5(1)(b)(ii) for “the appropriate amount” there shall be substituted “an amount which would be the appropriate amount” and at the end there shall be added “if the other member were the claimant”;
- (c) in paragraph 6(2) for head (a) there shall be substituted the following—
 - “(a) he is a blind person registered with a Health and Social Services Board established under Article 16 of the 1972 Order; or”.

Amendment of Schedule 7 to the principal regulations

19. In Schedule 7 to the principal regulations (applicable amounts in special cases)—

- (a) in column (2) for paragraph 1(d)(ii) there shall be substituted the following—
 - “(ii) the applicable amount shall be £8·25 in respect of each member plus any amounts applicable under regulation 18(1)(c), (d), (f) or (g), or (e) because of his satisfying the condition specified in paragraph 14 of Schedule 2.”;
- (b) in column (2) for paragraph 10A(a) there shall be substituted the following paragraph—
 - “10A. £41·15 of which £32·90 is in respect of the cost of the accommodation and £8·25 for personal expenses plus any amounts applicable under regulation 17(1)(e) or (f).”;
- (c) after paragraph 10B there shall be inserted the following paragraph—

“Lone parents who are in residential accommodation temporarily

10C. A claimant who is a lone parent who has entered residential accommodation temporarily.

10C. £41·15 of which £32·90 is in respect of accommodation and £8·25 for personal expenses plus a personal allowance in respect of each child for whom he is responsible calculated under regulation 17, 20 or 21, as appropriate, plus any amount which is applicable in his case under regulation 17(1)(c), (e) or (f), or (d) in so far as it relates to lone parent premium under paragraph 8 of Schedule 2.”.

Amendment of Schedule 9 to the principal regulations

20. In Schedule 9 to the principal regulations (sums to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 18 for “member of his household” there shall be substituted “person who normally resides with the claimant”;
- (b) after paragraph 40(a) there shall be added the following paragraphs—

“41. Any payment made by the Department to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with and including that day.

42. Any payment made under arrangements made by the Department to compensate for the loss of housing benefit supplement under regulation 19A of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983(b).

43. Any payment made to a juror or witness in respect of attendance at court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.

44. Any housing benefit in the form of a community charge rebate.”.

Amendment of Schedule 10 to the principal regulations

21. In Schedule 10 to the principal regulations (capital to be disregarded)—

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- (a) See S.R. 1988 No. 146 regulation 36(g) and S.R. 1988 No. 205 regulation 5(d) for paragraphs 38 and 39 and S.R. 1988 No. 318 regulation 24(c) for paragraph 40
 - (b) S.R. 1983 No. 61; the relevant amending regulations are S.R. 1983 No. 291, S.R. 1984 No. 79 and S.R. 1986 No. 236

- (a) for paragraph 27(a) there shall be substituted the following paragraph—

“27. Any premises which the claimant intends to occupy as his home and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings, whichever is earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.”;

- (b) after paragraph 31 there shall be added the following paragraphs—

“32. Any payment made by the Department to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with and including that day.

33. Any payment made under arrangements made by the Department to compensate for the loss of housing benefit supplement under regulation 19A of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983.

34. Any payment made to a juror or witness in respect of attendance at court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.

35. Any housing benefit in the form of a community charge rebate.”.

Sealed with the Official Seal of the Department of Health and Social Services on 9th December 1988.

(L.S.)

P. A. Conliffe

Assistant Secretary

(a) See S.R. 1988 No. 146 regulation 37(e) and S.R. 1988 No. 205 regulation 5(e) for paragraphs 22 to 24, S.R. 1988 No. 193 regulation 3(b) for paragraphs 25 to 28 and S.R. 1988 No. 318 regulation 25 for paragraphs 29 to 31

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Income Support (General) Regulations (Northern Ireland) 1987 in the following respects—

- (a) they provide that where a disability premium is applicable to a person, it shall continue to be applicable to him whilst he is undergoing training (regulation 15(b)) and amend the circumstances where that premium is payable (regulation 15(a)); amend the provision relating to the applicable amount of blind persons and certain other persons who are in nursing homes or homes for persons in need (regulation 18); and make new provision for the applicable amounts of persons in special cases, including lone parents who have entered residential accommodation temporarily (regulation 19);
- (b) they delete the provisions which treat charitable or voluntary payments in excess of £250 as income (regulations 4 to 10(a), 12 and 13(b)); provide that capital derived from a payment made in consequence of any personal injury which is placed on trust is not to be treated as a notional resource (regulation 11); specify as an eligible housing cost interest under a hire purchase agreement for the purchase of a home (regulation 16); amend the provisions under which sums are disregarded in the calculation of income and capital (regulations 20 and 21); and provide that earnings in respect of part of a day are to be attributed to a period equal to a day (regulation 6(c));
- (c) they provide in urgent cases for housing benefit, community charge rebate and payments to compensate for the loss of housing benefit and housing benefit supplement to be disregarded in calculating income and for training bonuses, refunds of tax and payments to compensate for the loss of supplementary benefit to be taken into account as capital and for arrears of housing benefit to be disregarded in such a calculation (regulation 13);
- (d) they insert a new definition of “board and lodging accommodation” and make miscellaneous amendments to the provisions in Schedule 3A by amending the definition of “eligible housing benefit” and the circumstances in which a person is a protected person, or is entitled to a protected sum, for the purposes of that Schedule with effect from 10th April 1989 (regulations 2(a) and 17);
- (e) they make miscellaneous amendments to the circumstances in which income is treated as capital (regulation 10(b)); the definition of “polygamous marriage” (regulation 2(c)); the circumstances in which a person is treated as engaged in remunerative work (regulation 3); and the circumstances in which a person is not required to be available for employment on account of incapacity, age or absence from the United Kingdom (regulation 14).

The regulations correspond to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to,

the Social Security Act 1980 (c. 30), are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.