

1989 No. 139

SOCIAL SECURITY

**The Income Support (General) (Amendment)
Regulations (Northern Ireland) 1989**

Made 7th April 1989

Coming into operation—

regulations 1, 2, 3

and 6 to 8

regulations 4, 5, 9 and 10

10th April 1989

9th October 1989

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(1) and (12)(k), 22(1A) and 23(1), (2), (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) Regulations (Northern Ireland) 1989 and shall come into operation, in relation to a particular claimant, as follows—

- (a) regulations 1, 2, 3, 6 and 8 at the beginning of the first benefit week to commence for that claimant on or after 10th April 1989;
- (b) regulation 7, on 10th April 1989 immediately after regulation 17 of the Income Support (General) (Amendment No. 5) Regulations (Northern Ireland) 1988(b) comes into operation;
- (c) regulations 4, 5, 9 and 10 at the beginning of the first benefit week to commence for that claimant on or after 9th October 1989.

(2) In paragraph (1) the expressions “benefit week” and “claimant” have the same meaning as in the principal regulations and in these regulations “the principal regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(c).

(a) S.I. 1986/1888 (N.I. 18); Article 22(1A) was inserted by paragraph 16 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. 1988 No. 431

(c) S.R. 1987 No. 459; the relevant amending regulations are S.R. 1988 Nos. 146, 193, 205, 274, 318 and 431. *See also* S.R. 1989 No. 18

Amendment of regulation 3 of the principal regulations

2. In regulation 3 of the principal regulations (definition of non-dependant)—

- (a) in paragraph (2)(d) for the words from “liable to make payments” to the end there shall be substituted “liable to make payments to the claimant or the claimant’s partner or to whom or to whose partner the claimant or the claimant’s partner is liable to make payments, in respect of his occupation of the dwelling”;
- (b) in paragraph (3) “in board and lodging accommodation or” shall be omitted;
- (c) at the end of paragraph (4) there shall be added “but not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord”.

Amendment of regulation 16 of the principal regulations

3. In regulation 16(3)(c) and (5)(b) of the principal regulations (circumstances in which a person is to be treated as being or not being a member of the household) for “sub-paragraph (a) or (b) of the definition of residential accommodation” there shall be substituted “sub-paragraph (a) or (b) (excluding heads (i) to (iii) of those sub-paragraphs) of the definition of “residential accommodation” ”.

Amendment of regulation 71 of the principal regulations

4. In regulation 71(1)(a)(iii) of the principal regulations (applicable amounts in urgent cases) for “paragraph 15(2)” there shall be substituted “paragraph 15(2), (2A)”.

Amendment of Schedule 2 of the principal regulations

5. In Schedule 2 to the principal regulations (applicable amounts)—

(a) for paragraph 9 there shall be substituted the following paragraphs—

“*Pensioner Premium for persons under 75*

9. The condition is that the claimant—

- (a) is a single claimant or lone parent aged not less than 60 but less than 75; or
- (b) has a partner and is, or his partner is, aged not less than 60 but less than 75.

“*Pensioner Premium for persons 75 and over*

9A. The condition is that the claimant—

- (a) is a single claimant or lone parent aged not less than 75 but less than 80; or
- (b) has a partner and is, or his partner is, aged not less than 75 but less than 80.”;

(b) in paragraph 12(1)(c)(i) for “solely on account of the maximum age for its payment being reached” there shall be substituted “either on account of the maximum age for this payment being reached or the payment of a retirement pension under the principal Act”;

(c) in paragraph 15(a)—

(i) for sub-paragraph (2) there shall be substituted the following sub-paragraphs—

| | |
|--|------------------|
| “(2) Pensioner Premium for persons aged under 75— | |
| (a) where the claimant satisfies the condition in paragraph 9(a); | (2) (a) £11.20; |
| (b) where the claimant satisfies the condition in paragraph 9(b). | (b) £17.05. |
| (2A) Pensioner Premium for persons aged 75 and over— | |
| (a) where the claimant satisfies the condition in paragraph 9A(a); | (2A) (a) £13.70; |
| (b) where the claimant satisfies the condition in paragraph 9A(b). | (b) £20.55.”; |

(ii) in sub-paragraph (3) for “£13.70” and “£19.50” there shall be substituted “£16.20” and “£23.00” respectively.

Amendment of Schedule 3 to the principal regulations

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

(a) in paragraph 4—

(i) in sub-paragraph (7)(c)(ii) after “paragraph 9,” there shall be inserted “9A,”

(ii) in sub-paragraph (9)(b)(ii) after “(prevention of illness, care and after-care and care of mothers and young children)” there shall be added “where board is available to the claimant”;

(b) in paragraph 11—

(i) in sub-paragraph (1) after “shall be made in respect of a non-dependant” there shall be inserted “or a person who lives in board and lodging accommodation”; and in head (a) of that sub-paragraph after “regulation 3(3) (non-dependants) applies” there shall be inserted “and in respect of a person aged 18 or more who lives in board and lodging accommodation”;

(ii) in sub-paragraph (2) after “remunerative work” there shall be inserted “and of a person aged 18 or more in remunerative work who lives in board and lodging accommodation”; and after “the non-dependant’s gross weekly income” there shall be inserted “or that of the person in board and lodging accommodation”.

Amendment of Schedule 3A to the principal regulations

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

(a) in paragraph 1(1)—

(i) for the definition of “eligible housing benefit” there shall be substituted the following definition—

“ “eligible housing benefit” means—

(a) for the period of 7 consecutive days beginning on and including 3rd April 1989, the amount of housing benefit to which the claimant or his partner was entitled in that period 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) for the period of 7 consecutive days beginning on and including 10th April 1989 or, in a case to which paragraph 7(7)(b) applies, for the period of 7 consecutive days referred to in that paragraph, the amount of the claimant’s or his partner’s maximum housing benefit determined in accordance with regulation 61 of the Housing Benefit (General) Regulations (Northern Ireland) 1987(a) (maximum housing benefit) which relates to that accommodation;”

(ii) in the definition of “protected sum” at the end there shall be added “to a claimant who in the first week is living in board and lodging accommodation or who or whose partner is temporarily absent in that week from that accommodation”

(iii) for the definition of “protected total” there shall be substituted the following definition—

“ “protected total” means—

(a) the total of the claimant’s applicable amount under regulation 20 (persons in board and lodging accommodation) in the first week or, in a case to which paragraph 7(7) applies, if the protected person or any partner of his is temporarily absent from his accommodation in that week, the amount which would have fallen to be calculated under that regulation for that week as if there had been no temporary absence; and

(b) the amount of any eligible housing benefit for the period of 7 consecutive days beginning on and including 3rd April 1989;”

(iv) after the definition of “second week” there shall be added the following definition—

“ “third week” means the benefit week beginning on a day during the period of 7 days commencing on and including 17th April 1989.”;

(b) in paragraph 2—

- (i) the existing provision shall be numbered sub-paragraph (1),
- (ii) for “Subject to the following provisions of this Schedule” there shall be substituted “Subject to sub-paragraph (2) and paragraphs 3 to 7”,
- (iii) in sub-paragraph (1)(b) for “the period beginning 10th April 1989” there shall be substituted “the period of 7 consecutive days beginning on and including 10th April 1989”,
- (iv) after sub-paragraph (1) there shall be added the following sub-paragraphs—

“(2) Where—

- (a) in the second week a claimant’s income calculated in accordance with Part V or, as the case may be, Part VI exceeds the aggregate of his applicable amount determined in accordance with the relevant provisions and X; and
- (b) the amount of income support to which he is entitled in the first week is more than the amount of housing benefit to which he would, but for this sub-paragraph, have been entitled in the period of 7 consecutive days beginning on and including 10th April 1989,

the protected sum applicable to the claimant shall, subject to sub-paragraph (3), be an amount equal to $X + Y + 10$ pence.

(3) Where a claimant or his partner is, or both are, entitled in the first, second and third weeks to a relevant social security benefit or to more than one such benefit and consequent upon the Social Security Benefits Up-rating Order (Northern Ireland) 1989(a) the claimant or his partner is, or both are, entitled to an increase in any one or more of those benefits in the third week, the protected sum under sub-paragraph (2) shall be increased by an amount equal to the difference between—

- (a) the amount of benefit or aggregate amount of those benefits to which the claimant or his partner is, or both are, entitled in the third week; and, if less;
- (b) the amount of benefit or aggregate amount of those benefits to which the claimant or his partner is, or both are, entitled in the second week.

(4) In this paragraph—

“X” means the sum which, but for sub-paragraph (2), would be the protected sum applicable under sub-paragraph (1);

“Y” means the amount of the excess to which sub-paragraph (2)(a) refers;

“relevant social security benefit” means—

- (a) child benefit;
- (b) any benefit under the principal Act;

- (c) war disablement pension;
 - (d) war widow's pension;
 - (e) any payment under regulations made under the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975(a);
 - (f) any concessionary payment.”;
- (c) in paragraph 3(2) for the words from “where he, or any partner of his,” to “in respect of” there shall be substituted “unless he, or any partner of his, is entitled to housing benefit for the period of 7 consecutive days beginning on and including 10th April 1989 or, where paragraph 7(7)(b) applies, for the period of 7 consecutive days referred to in that paragraph in respect of”;
- (d) in paragraph 5—
- (i) in sub-paragraph (1) for “sub-paragraph (2)” there shall be substituted “sub-paragraphs (2) and (3)”,
 - (ii) after sub-paragraph (2) there shall be added the following sub-paragraph—
- “(3) Where by virtue of the coming into operation of regulation 5 of the Income Support (General) (Amendment) Regulations (Northern Ireland) 1989(b) the claimant's applicable amount increases in his benefit week beginning on a day during the period of 7 days commencing on and including 9th October 1989, no account shall be taken of that increase.”;
- (e) in paragraph 7 for sub-paragraphs (5) to (7) there shall be substituted the following sub-paragraphs—
- “(5) Except where sub-paragraph (7) applies, where a protected sum was applicable to a protected person immediately before he or any partner of his became a patient within the meaning of regulation 21(3) for a period of 14 weeks or less, he shall, subject to sub-paragraph (4)(c), on his or, as the case may be, his partner's ceasing to be a patient, be entitled to a protected sum equal to—
- (a) the amount by which his protected total exceeds his applicable amount determined in accordance with the relevant provisions in the first benefit week in which his applicable amount ceases to be determined under paragraph 1 of Schedule 7 and either—
 - (i) any eligible housing benefit for the period of 7 consecutive days beginning on and including 10th April 1989; or, if greater,
 - (ii) in a case where sub-paragraph (7)(b) applied, any eligible housing benefit for the period of 7 consecutive days referred to in that sub-paragraph; or
 - (b) the amount of the protected sum to which he was entitled in the immediately preceding benefit week,
- whichever is the lower.

(6) Paragraph 6(c) shall not apply to a protected person who has ceased to be entitled to income support for a period of not more than 8 weeks—

- (a) if immediately before he ceased to be so entitled a protected sum was applicable to him; and
- (b) except where sub-paragraph (7) applies, if during that period the protected person becomes re-entitled, or would by virtue of this sub-paragraph be re-entitled, to income support he shall, subject to sub-paragraph (4)(d), be entitled to a protected sum equal to—
 - (i) the amount by which his protected total exceeds his applicable amount determined in accordance with the relevant provisions in the first benefit week in which he becomes so re-entitled and either any eligible housing benefit for the period of 7 consecutive days beginning on and including 10th April 1989 or, if greater, in a case to which sub-paragraph (7)(b) applied, any eligible housing benefit for the period of 7 consecutive days referred to in that sub-paragraph, or
 - (ii) the amount of the protected sum to which he was previously entitled,whichever is the lower.

(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 or second week (or both)—

- (a) in a case where a protected sum was applicable to the protected person immediately before his or, as the case may be, his partner's return to that accommodation and the full charge was made for the accommodation during the temporary absence, on the protected person's or, as the case may be, his partner's return to that accommodation, the protected person shall be entitled to a protected sum equal to—
 - (i) the amount by which his protected total exceeds his applicable amount determined in accordance with the relevant provisions in the first complete benefit week after his or, as the case may be, his partner's return to that accommodation and any eligible housing benefit for the period of 7 consecutive days beginning on and including 10th April 1989, or
 - (ii) the amount of the protected sum which was applicable to him in the immediately preceding benefit week,whichever is the lower;
- (b) in a case where—
 - (i) a protected sum has not at any time been applicable to the protected person, or

- (ii) immediately before the protected person's or, as the case may be, his partner's return to that accommodation a protected sum was applicable but a reduced charge was made for the accommodation during the temporary absence,

the protected person on his or, as the case may be, his partner's return to that accommodation shall, subject to sub-paragraph (8), be entitled to a protected sum equal to the amount by which his protected total exceeds his applicable amount determined in accordance with the relevant provisions in the first complete benefit week after his or, as the case may be, his partner's return to that accommodation and the amount of eligible housing benefit for the period of 7 consecutive days beginning on the date determined in accordance with regulation 65 or, as the case may be, 68(2) of the Housing Benefit (General) Regulations (Northern Ireland) 1987 (date on which entitlement is to commence or change of circumstances is to take effect) following that person's return to that accommodation.

- (8) Where, in a case to which sub-paragraph (7)(b)(i) applies—
- (a) in the first complete benefit week after the protected person's or, as the case may be, his partner's return to his accommodation the protected person's income calculated in accordance with Part V or, as the case may be, VI exceeds the aggregate of his applicable amount determined in accordance with the relevant provisions and X; and
- (b) the amount of income support to which he was entitled in the first week is more than the amount of housing benefit to which he would, but for this sub-paragraph, have been entitled in the period of 7 consecutive days beginning on the date determined in accordance with regulation 65 or, as the case may be, 68(2) of the Housing Benefit (General) Regulations (Northern Ireland) 1987 following his or, as the case may be, his partner's return to that accommodation,

the protected sum applicable shall, subject to sub-paragraph (9), be an amount equal to $X + Y + 10$ pence.

(9) Where the protected person or, as the case may be, his partner returns to the accommodation in the second week and he or his partner is, or both are, entitled in the first, second and third weeks to a relevant social security benefit or to more than one such benefit and consequent upon the Social Security Benefits Up-rating Order (Northern Ireland) 1989 he or his partner is, or both are, entitled to an increase in any one or more of those benefits in the third week, the protected sum under sub-paragraph (8) shall be increased by an amount equal to the difference between—

- (a) the amount of benefit or aggregate amount of those benefits to which the protected person or his partner is, or both are, entitled in the third week; and, if less,

(b) the amount of benefit or aggregate amount of those benefits to which the protected person or his partner is, or both are, entitled in the second week.

(10) In sub-paragraph (8)—

“X” means the sum which, but for sub-paragraph (8), would be the protected sum applicable in a case to which sub-paragraph (7)(b)(i) applies;

“Y” means the amount of the excess to which sub-paragraph (8)(a) refers;

“relevant social security benefit” has the same meaning as in paragraph 2(4).”

Amendment of Schedule 7 to the principal regulations

8. In Schedule 7 to the principal regulations (applicable amounts in special cases) in paragraphs 10A and 10B(1) for “sub-paragraph (a) or (b) of the definition of residential accommodation” and in paragraph 14(a) for “sub-paragraphs (a) and (b) of the definition of residential accommodation” there shall be substituted in each of those paragraphs “sub-paragraph (a) or (b) (excluding heads (i) to (iii) of those sub-paragraphs) of the definition of “residential accommodation” ”.

Amendment of Schedule 8 to the principal regulations

9. In Schedule 8 to the principal regulations (sums to be disregarded in the calculation of earnings) for paragraph 4 there shall be substituted the following paragraph—

“4.—(1) In a case to which this paragraph applies, £15; but notwithstanding regulation 23 (calculation of income and capital of members of claimant’s family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £15.

(2) This paragraph applies where the claimant’s applicable amount includes, or but for his being an in-patient or in accommodation in a home for persons in need or nursing home or in residential accommodation would include, an amount by way of a disability premium under Schedule 2 (applicable amounts).

(3) This paragraph applies where—

(a) the claimant is a member of a couple, and—

(i) his applicable amount would include an amount by way of the disability premium under Schedule 2 but for the higher pensioner premium under that Schedule being applicable, or

(ii) had he not been an in-patient or in accommodation in a home for persons in need or nursing home or in residential accommodation his applicable amount would include the higher pensioner premium under that Schedule and had that been the case he would also satisfy the condition in (i); and

(b) he or his partner is under the age of 60 and at least one is engaged in part-time employment.

(4) This paragraph applies where—

(a) the claimant's applicable amount includes, or but for his being an in-patient or in accommodation in a home for persons in need or nursing home or in residential accommodation would include, an amount by way of the higher pensioner premium under Schedule 2;

(b) the claimant or, if he is a member of a couple, either he or his partner has attained the age of 60;

(c) immediately before attaining that age he or, as the case may be, he or his partner was engaged in part-time employment and the claimant was entitled by virtue of sub-paragraph (2) or (3) to a disregard of £15; and

(d) he or, as the case may be, he or his partner has continued in part-time employment.

(5) This paragraph applies where—

(a) the claimant is a member of a couple, and—

(i) his applicable amount would include an amount by way of the disability premium under Schedule 2 but for the pensioner premium for persons aged 75 and over under that Schedule being applicable, or

(ii) had he not been an in-patient or in accommodation in a home for persons in need or nursing home or in residential accommodation his applicable amount would include the pensioner premium for persons aged 75 and over under that Schedule and had that been the case he would also satisfy the condition in (i); and

(b) he or his partner has attained the age of 75 but is under the age of 80 and the other is under the age of 60 and at least one member of the couple is engaged in part-time employment.

(6) This paragraph applies where—

(a) the claimant is a member of a couple and he or his partner has attained the age of 75 but is under the age of 80 and the other has attained the age of 60;

(b) immediately before the younger member attained that age either member was engaged in part-time employment and the claimant was entitled by virtue of sub-paragraph (5) to a disregard of £15; and

(c) either he or his partner has continued in part-time employment.

(7) For the purposes of this paragraph, no account shall be taken of any period not exceeding 8 consecutive weeks occurring on or after the date on which the claimant or, if he is a member of a couple, he or his partner attained the age of 60 during which either or both ceased to be engaged in part-time employment or the claimant ceased to be entitled to income support."

Hostels

10.—(1) The provisions of the principal regulations relating to persons in hostels shall be amended in accordance with Schedule 1.

(2) In Schedule 1 a reference to a numbered regulation or Schedule is to the regulation in, or Schedule to, the principal regulations bearing that number.

Sealed with the Official Seal of the Department of Health and Social Services on 7th April 1989.

(L.S.)

A. N. Burns

Assistant Secretary

PART I

OMISSION OF REFERENCES TO HOSTEL IN THE
PRINCIPAL REGULATIONS AND CONSEQUENTIAL AMENDMENTS

1. In regulation 2(1) (interpretation) in the definition of “residential accommodation” for “regulations 19 and 20 and paragraph 8(c)(i) of Schedule 5” there shall be substituted “regulation 19 and Schedule 3B”.

2. In regulation 3 (definition of non-dependant)—

(a) in paragraph (2)(d) “subject to paragraph (3),” shall be omitted;

(b) paragraph (3) shall be omitted.

3. In regulation 16(3)(c) and (5)(b)(a) (circumstances in which a person is to be treated as being or not being a member of the household) for “excluding heads (i) to (iii)” there shall be substituted “excluding heads (i) and (ii)”.

4. Regulation 20 (persons in board and lodging accommodation and hostels) shall be omitted.

5. In regulation 21(3) (special cases), in the definition of “residential accommodation”, in sub-paragraphs (a) and (b)—

(a) in head (i) for “where full board is not” there shall be substituted “where no board is”;

(b) head (iii) shall be omitted,

in each of those provisions.

6. In regulation 22(1)(b) (reductions in applicable amounts in cases of voluntary unemployment) for the words from “regulation 19 or 20” to the end there shall be substituted “regulation 19 (persons in homes for persons in need and nursing homes) applies, the amount allowed for personal expenses for him specified in paragraph 12 of Schedule 4.”.

7. In regulations 42(4)(a)(ii) (notional income) and 51(3)(a)(ii) (notional capital) “or 20” and “or hostels”, in each of those regulations shall be omitted.

8. In regulation 71(1)(b) (applicable amounts in urgent cases) “a hostel,” and—

(a) in head (i) “or paragraph 11(b) of Schedule 5 (applicable amounts of persons in board and lodging accommodation or hostels) whichever is appropriate in respect of him”;

(b) in head (ii) “or paragraph 11(c) to (f) of Schedule 5, whichever is appropriate,”; and

(c) in head (iii) “or regulation 20 (persons in board and lodging accommodation or hostels) and Schedule 5 whichever is appropriate”;

shall be omitted.

9. In regulation 73 (amount of income support payable)—

(a) in paragraph (2) “or, as the case may be, 20” and “or hostels” shall be omitted;

(a) Regulation 16 is amended by regulation 3 of these regulations

- (b) in paragraph (4) “or, as the case may be, paragraph 1(1)(a) of Schedule 5” wherever it occurs in that paragraph shall be omitted;
- (c) in paragraph (5)—
 - (i) in the definition of “H” “or, as the case may be, paragraph 1(1)(c) of Schedule 5” shall be omitted,
 - (ii) in the definition of “M” “or, as the case may be, paragraph 2 of Schedule 5” shall be omitted, and
 - (iii) in the definition of “P” “or, as the case may be, paragraph 11 of Schedule 5” shall be omitted.

10. In Schedule 3 (housing costs)—

- (a) in paragraph 5(b) for the words from “either regulation 19” to “applies” there shall be substituted “regulation 19 (applicable amounts for persons in homes for persons in need and nursing homes) applies”;
- (b) in paragraph 11—
 - (i) in sub-paragraph (1)(a)(a) “is a person to whom regulation 3(3) (non-dependants) applies and in respect of” shall be omitted,
 - (ii) in sub-paragraph (7), in heads (b), (c) and (d) for “and he is not a person to whom regulation 3(3) applies” there shall be substituted in each of those provisions “and is not a person who lives in board and lodging accommodation”.

11. In Schedule 3A (protected sums) in paragraph 7(1)(b)(ii) for the words from “or a hostel” to “and hostels” shall be omitted.

12. Schedule 5 (applicable amounts of persons in hostels) shall be omitted.

13. In Schedule 7 (applicable amounts in special cases)—

- (a) in column (1), in paragraphs 10A and 10B(1)(b) for “excluding heads (i) to (iii)” there shall be substituted “excluding heads (i) and (ii)”;
- (b) in column (2), in paragraphs 10B(1) and 10C “, 20” in each of those paragraphs shall be omitted;
- (c) in column (2), in paragraph 11 for “19 to 21” wherever it occurs there shall be substituted “19 or 21”;
- (d) in column (2), in paragraph 12 for “18 to 21” wherever it occurs there shall be substituted “18, 19 or 21”;
- (e) in paragraph 14—
 - (i) in column (1), “or 20” and “or hostels” shall be omitted,
 - (ii) in column (2), “or paragraph 1(1)(a) of Schedule 5 (applicable amounts of hostels), as the case may be,” shall be omitted,
 - (iii) in column (1), in sub-paragraph (a)(c) for “excluding heads (i) to (iii)” there shall be substituted “excluding heads (i) and (ii)”;
- (f) in column (2), in paragraph 15, in sub-paragraphs (b)(ii), (c)(i) and (d)(i) for “regulation 19, 20 or 21” there shall be substituted “regulation 19 or 21”;
- (g) in column (1), in paragraph 16 “or 20” shall be omitted;

(a) Sub-paragraph (1)(a) of paragraph 11 is amended by regulation 6(b)(i) of these regulations

(b) Paragraphs 10A and 10B are amended by regulation 8 of these regulations

(c) Paragraph 14(a) is amended by regulation 8 of these regulations

(h) in column (2), in paragraph 16—

- (i) in sub-paragraph (a)(i) and (ii) “or 20, as the case may be,” and “or 20” shall be omitted wherever they occur in each of those heads,
- (ii) in sub-paragraph (a)(iii) “or paragraph 2 of Schedule 5, as the case may be,”; “or paragraph 11 of Schedule 5, as the case may be,”; and “or 20” shall be omitted,
- (iii) in sub-paragraph (b)(ii) “or 20, as the case may be” in each place where it occurs and “or paragraph 2 of Schedule 5, as the case may be,” shall be omitted; and for “either paragraph 12 of Schedule 4 or paragraph 11 of Schedule 5, as the case may be,” there shall be substituted “paragraph 12 of Schedule 4”,
- (iv) in sub-paragraph (b)(iii) “or 20, as the case may be” in each place where it occurs and “or paragraph 2 of Schedule 5, as the case may be,” shall be omitted; and for “either paragraph 12 of Schedule 4 or paragraph 11 of Schedule 5, as the case may be,” there shall be substituted “paragraph 12 of Schedule 4”,
- (v) in sub-paragraph (b)(iv) “or 20, as the case may be” in each place where it occurs and “or paragraph 2 of Schedule 5, as the case may be,” shall be omitted; and for “either paragraph 12 of Schedule 4 or paragraph 11 of Schedule 5, as the case may be,” there shall be substituted “paragraph 12 of Schedule 4”,
- (vi) in sub-paragraph (c) “or 20, as the case may be,” shall be omitted.

14. In Schedule 8 (sums to be disregarded in the calculation of earnings)—

- (a) in paragraph 5 “, hostel,” shall be omitted;
- (b) in paragraph 15 for “home for persons in need, nursing home or hostel” there shall be substituted “home for persons in need or nursing home”.

15. In Schedule 9 (sums to be disregarded in the calculation of income other than earnings) in paragraph 30(d) for the words from “actual charge” to the end there shall be substituted “actual charge increased, where appropriate, in accordance with paragraph 2 of Schedule 4 exceeds the amount determined in accordance with regulation 19 (persons in homes for persons in need and nursing homes).”.

16. In Schedule 10 (capital to be disregarded) in paragraph 12 for “Schedules 4 and 5” there shall be substituted “Schedule 4”.

PART II

TRANSITIONAL PROVISIONS FOR DETERMINING THE APPLICABLE AMOUNTS OF PERSONS WHO WERE IN HOSTELS PRIOR TO 9TH OCTOBER 1989

17. In regulations 17(1)(g), 18(1)(h) and 71(1)(a)(v) and (d)(iv) (applicable amounts, polygamous marriages and urgent cases) there shall be added at the end of each of those regulations “or, as the case may be, 3B”.

18. After Schedule 3A (protected sum) there shall be inserted as Schedule 3B the Schedule set out in Schedule 2 to these regulations.

SCHEDULE 2

Regulation 10 and
paragraph 18 of Schedule 1

"SCHEDULE 3B

Regulations 17(1)(g),
18(1)(h) and
71(1)(a)(v) and (d)(iv)

PROTECTED SUM

Interpretation

1.—(1) In this Schedule—

"eligible housing benefit" means—

- (a) for the period of 7 consecutive days beginning on and including 2nd October 1989, the amount of housing benefit to which the claimant or his partner was entitled in that period which relates to the hostel normally occupied as the home by him or, if he has a partner, by him and his partner;
- (b) for the period of 7 consecutive days beginning on and including 9th October 1989 or, in a case to which paragraph 6(4)(b) applies, for the period of 7 consecutive days referred to in that paragraph, the amount of the claimant's or his partner's maximum housing benefit determined in accordance with regulation 61 of the Housing Benefit (General) Regulations (Northern Ireland) 1987(a) (maximum housing benefit) which relates to that accommodation;

"first week" means the benefit week beginning on a day during the period of 7 days commencing on and including 2nd October 1989;

"hostel" means any establishment which immediately before the commencement of this Schedule was a hostel within the meaning of regulation 20(2) (persons in hostels);

"income support" includes any sum payable under Part III of the Income Support (Transitional) Regulations (Northern Ireland) 1987(b);

"March benefit week" means the benefit week beginning on a day during the period of 7 consecutive days beginning on and including 20th March 1989;

"protected sum" means the amount applicable under this Schedule to a claimant who in the first week is living in a hostel or who or whose partner is temporarily absent in that week from that accommodation;

"protected total" means—

- (a) the total of the claimant's applicable amount under regulation 20 in the first week or, in a case to which paragraph 6(4) applies, if the claimant or any partner of his is temporarily absent from his accommodation in that week, the amount which would have fallen to be calculated under that regulation for that week as if there had been no temporary absence; and
- (b) the amount of any eligible housing benefit for the period of 7 consecutive days beginning on and including 2nd October 1989;

"relevant benefit week" means the benefit week beginning on a day during the period of 7 days commencing on and including 9th April 1990;

"relevant provisions" means—

- (a) regulation 17(1)(a) to (f) (applicable amounts);

(a) S.R. 1987 No. 461; the relevant amending regulations are S.R. 1989 No. 125

(b) S.R. 1987 No. 460; the relevant amending regulations are S.R. 1988 Nos. 132 and 153. *See also* S.R. 1989 No. 18, Article 16

- (b) regulation 18(1)(a) to (g) (polygamous marriages);
- (c) regulation 71(1)(a)(i) to (iv) (applicable amounts in urgent cases);
- (d) regulation 71(1)(d)(i) to (iii);
- (e) in relation to a case to which paragraph 15(b)(ii) or (c)(i) of Schedule 7 (persons from abroad) applies, the regulations specified in that paragraph but as if the reference to regulation 17(1)(g) in that paragraph were omitted; or
- (f) in relation to a case to which paragraph 15(d)(i) of that Schedule applies, the regulations specified in that paragraph but as if the reference to regulation 18 were a reference to regulation 18(1)(a) to (g) only;

“second week” means the benefit week beginning on a day during the period of 7 days commencing on and including 9th October 1989.

(2) For the purpose of this Schedule—

- (a) in determining a claimant’s applicable amount in his first week, second week or any subsequent benefit week no account shall be taken of any reduction under regulation 22 (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification);
- (b) except in so far as it relates to any temporary absence to which paragraph 6(4) refers, where a change of circumstances takes effect in the claimant’s second week which, had it taken effect in the first week, would have resulted in a lesser applicable amount in respect of that week, his applicable amount in the first week shall be determined as if the change of circumstances had taken effect in that week.

Protected sum

2.—(1) Subject to this paragraph and paragraphs 3 to 6, where the protected total of a claimant is more than—

- (a) his applicable amount in the second week determined in accordance with the relevant provisions less the amount of any increase consequent on the coming into operation of regulation 5 of the Income Support (General) (Amendment) Regulations (Northern Ireland) 1989(a); and
- (b) any eligible housing benefit for the period of 7 consecutive days beginning on and including 9th October 1989,

the protected sum applicable to the claimant shall be an amount equal to the difference.

(2) Where—

- (a) in the second week a claimant’s income calculated in accordance with Part V or, as the case may be, VI exceeds the aggregate of his applicable amount determined in accordance with the relevant provisions and X; and
- (b) the amount of income support to which he is entitled in the first week is more than the amount of housing benefit to which he would, but for this sub-paragraph, have been entitled in the period of 7 consecutive days beginning on and including 9th October 1989,

the protected sum applicable to the claimant shall be an amount equal to $X + Y + 10$ pence.

(3) In sub-paragraph (2)—

“X” means the sum which, but for sub-paragraph (2), would be the protected sum applicable under sub-paragraph (1);

“Y” means the amount of the excess to which sub-paragraph (2)(a) refers.

(4) For the period beginning with the claimant’s relevant benefit week the protected sum applicable to the claimant shall, subject to sub-paragraph (6) and paragraphs 3 to 6, be—

(a) the total of—

- (i) the amount of the allowance for personal expenses for the claimant or, if he is a member of a family, for him and for each member of his family in the first week determined, or which, but for any temporary absence, would have been determined, in accordance with paragraph 11 of Schedule 5 as then in operation,
- (ii) the amount of any increase for meals in the first week determined, or which, but for any temporary absence, would have been determined, in accordance with paragraph 2 of that Schedule, and
- (iii) the amount or, if he is a member of a family, the aggregate of the amounts determined in accordance with sub-paragraph (5),

less the aggregate of his applicable amount in the second week determined, or which, but for any temporary absence, would have been determined, in accordance with the relevant provisions and, where applicable, the amount of any reduction in the protected sum made by virtue of paragraph 4 in a benefit week occurring before the relevant benefit week; or

(b) the amount of the protected sum which was applicable to him in the immediately preceding benefit week,

whichever is the lower.

(5) For the purposes of sub-paragraph (4)(a), where in the first week the accommodation charge makes or, but for any temporary absence, would have made, provision or no provision for meals, as respects each person an amount shall be determined as follows—

(a) in a case where the provision is for at least three meals a day—

- (i) for the claimant, £17·20,
- (ii) for a member of his family aged 16 or over, £12·50,
- (iii) for a member of his family aged less than 16, £6·25;

(b) except where head (c) applies, in a case where the provision is for less than three meals a day—

- (i) for the claimant, £13·85,
- (ii) for a member of his family aged 16 or over, £8·30,
- (iii) for a member of his family aged less than 16, £4·15;

(c) in a case where the provision is for breakfast only—

- (i) for the claimant, £7·05,
- (ii) for a member of his family, £1·50;

(d) in a case where there is no provision for meals, for the claimant or, if he is a member of a family, for the claimant and for the members of his family for whom there is no such provision, £5·55.

(6) Where in the relevant benefit week the claimant is in, or only temporarily absent from, residential accommodation, the protected sum applicable to the claimant for the period beginning with that week shall be—

(a) equal to the difference between—

- (i) the amount of the allowance for personal expenses for the claimant or, if he is a member of a family, for him and for each member of his family in the first week determined, or which, but for any temporary absence,

would have been determined, in accordance with paragraph 11 of Schedule 5 as then in operation, and

- (ii) the amount of the allowance for personal expenses for the claimant or, if he is a member of a family, for him and for each member of his family in the second week determined, or which, but for any temporary absence would have been determined, under paragraph 13 of Schedule 7 (persons in residential accommodation),

less, where applicable, the amount of any reduction in the protected sum made by virtue of paragraph 4 in a benefit week occurring before the relevant benefit week; or

- (b) the amount of the protected sum which was applicable to him in the immediately preceding benefit week,

whichever is the lower.

Persons not entitled to a protected sum

3.—(1) Subject to paragraph 6, a protected sum shall not be applicable to a claimant where he changes or vacates his hostel during the period of 7 consecutive days beginning on and including 9th October 1989.

(2) Except where regulation 8(2)(b) of the Housing Benefit (General) Regulations (Northern Ireland) 1987 (eligible housing costs) applies, a protected sum shall not be applicable to a claimant unless he, or any partner of his, is entitled to housing benefit for the period of 7 consecutive days beginning on and including 9th October 1989 or, where paragraph 6(4)(b) applies, for the period of 7 consecutive days referred to in that paragraph, in respect of the hostel normally occupied as the home by him, or if he has a partner, by him and his partner.

(3) A protected sum shall not be applicable to a claimant where—

- (a) he has been or would, but for any temporary absence, have been in the same accommodation in both the March benefit week and the second week, and—
 - (i) his applicable amount in both those weeks fell or would have fallen, but for any temporary absence, to be determined under paragraph 13(1) of Schedule 7, or
 - (ii) his applicable amount in the second week fell or would have fallen, but for any temporary absence, to be determined under that paragraph and would also have fallen to be so determined in the March benefit week had his stay in that accommodation been other than temporary; or
- (b) his applicable amount in the second week fell or would have fallen, but for any temporary absence, to be determined under that paragraph and would also have fallen to be so determined in the March benefit week had he been in the same accommodation in that week and had his stay in that accommodation been other than temporary.

Reduction of protected sum

4.—(1) Subject to sub-paragraph (2), the protected sum shall be reduced by the amount of any increase, in a benefit week subsequent to the second week, in the claimant's applicable amount determined in accordance with the relevant provisions.

(2) Where regulation 22 (reduction in certain cases of unemployment benefit disqualification) ceases to apply to a claimant and as a result his applicable amount increases no account shall be taken of that increase.

Termination of protected sum

5. Subject to paragraph 6, the protected sum shall cease to be applicable if—

- (a) that amount is reduced to nil under paragraph 4;

- (b) the claimant changes or vacates his hostel; or
- (c) the claimant ceases to be entitled to income support.

Modifications in cases of temporary absence and loss of entitlement to income support

6.—(1) Paragraph 5(b) shall not apply to a claimant if—

- (a) he becomes a patient within the meaning of regulation 21(3) (special cases);
- (b) on his ceasing to be a patient within the meaning of regulation 21(3), he returns to the hostel which he occupied immediately before he became a patient; or
- (c) in a case to which sub-paragraph (3) applies, on his becoming re-entitled to income support, he is in the accommodation which he occupied immediately before he ceased to be entitled to income support.

(2) Except where sub-paragraph (4) applies, where a protected sum was applicable to the claimant immediately before he or any partner of his became a patient within the meaning of regulation 21(3) for a period of 14 weeks or less, he shall, subject to sub-paragraph (1)(b), on his or, as the case may be, his partner ceasing to be a patient be entitled to a protected sum equal to—

- (a) the amount by which his protected total exceeds his applicable amount determined in accordance with the relevant provisions in the first benefit week in which his applicable amount ceases to be determined under paragraph 1 of Schedule 7 and either—
 - (i) any eligible housing benefit for the period of 7 consecutive days beginning on and including 9th October 1989, or, if greater,
 - (ii) in a case where sub-paragraph (4)(b) applied, any eligible housing benefit for the period of 7 consecutive days referred to in that sub-paragraph; or
- (b) the amount of the protected sum to which he was entitled in the immediately preceding benefit week,

whichever is the lower.

(3) Paragraph 5(c) shall not apply to a claimant who has ceased to be entitled to income support for a period of not more than 8 weeks—

- (a) if immediately before he ceased to be so entitled a protected sum was applicable to him; and
- (b) except where sub-paragraph (4) applies, if during that period he becomes re-entitled, or would by virtue of this sub-paragraph be re-entitled, to income support he shall, subject to sub-paragraph (1)(c), be entitled to a protected sum equal to—
 - (i) the amount by which his protected total exceeds his applicable amount determined in accordance with the relevant provisions in the first benefit week in which he becomes so re-entitled and either any eligible housing benefit for the period of 7 consecutive days beginning on and including 9th October 1989 or, if greater, in a case to which sub-paragraph (4)(b) applied, any eligible housing benefit for the period of 7 consecutive days referred to in that sub-paragraph, or
 - (ii) the amount of the protected sum to which he was previously entitled, whichever is the lower.

(4) Where a claimant or any partner of his is temporarily absent from his accommodation for a period not exceeding 14 weeks which includes the first or second week (or both)—

- (a) in a case where a protected sum was applicable to the claimant immediately before his or, as the case may be, his partner's return to that accommodation and the full charge was made for the accommodation during the temporary absence, on the claimant's or, as the case may be, his partner's return to that accommodation, the claimant shall be entitled to a protected sum equal to—
- (i) the amount by which his protected total exceeds his applicable amount determined in accordance with the relevant provisions in the first complete benefit week after his, or as the case may be, his partner's return to that accommodation and any eligible housing benefit for the period of 7 consecutive days beginning on and including 9th October 1989, or
 - (ii) the amount of the protected sum which was applicable to him in the immediately preceding benefit week,
- whichever is the lower.
- (b) in a case where—
- (i) a protected sum has not at any time been applicable to the claimant, or
 - (ii) immediately before the claimant's or, as the case may be, his partner's return to that accommodation a protected sum was applicable to the claimant but a reduced charge was made for the accommodation during the temporary absence,

the claimant on his or, as the case may be, his partner's return to that accommodation shall, subject to sub-paragraph (5), be entitled to a protected sum equal to the amount by which his protected total exceeds his applicable amount determined in accordance with the relevant provisions in the first complete benefit week after his or, as the case may be, his partner's return to that accommodation and the amount of eligible housing benefit for the period of 7 consecutive days beginning on and including the date determined in accordance with regulation 65 or, as the case may be, 68(2) of the Housing Benefit (General) Regulations (Northern Ireland) 1987 (date on which entitlement is to commence or change of circumstances is to take effect) following that person's return to that accommodation.

- (5) Where, in a case to which sub-paragraph (4)(b)(i) applies—
- (a) in the first complete benefit week after the claimant's or, as the case may be, his partner's return to his accommodation the claimant's income calculated in accordance with Part V or, as the case may be, VI exceeds the aggregate of his applicable amount determined in accordance with the relevant provisions and X; and
 - (b) the amount of income support to which he was entitled in the first week is more than the amount of housing benefit to which he would, but for this sub-paragraph, have been entitled in the period of 7 consecutive days beginning on and including the date determined in accordance with regulation 65 or, as the case may be, 68(2) of the Housing Benefit (General) Regulations (Northern Ireland) 1987 following his or, as the case may be, his partner's return to that accommodation,

the protected sum applicable to the claimant shall be an amount equal to $X + Y + 10$ pence.

- (6) In sub-paragraph (5)—

“X” means the sum which, but for sub-paragraph (5), would be the protected sum applicable in a case to which sub-paragraph (4)(b)(i) applies;

“Y” means the amount of the excess to which sub-paragraph (5)(a) refers.

(7) The foregoing provisions of this paragraph shall not apply to a claimant if he or, if he has a partner, he or his partner, in the first week is temporarily living in a hostel and that accommodation is not the accommodation normally occupied as the home.”.

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 introduce an increased pensioner premium for persons aged 75 and over and up-rate the amount of the higher pensioner premium with effect from 9th October 1989 (regulations 4 and 5); and provide for an earnings disregard of £15 where but for the new premiums a person would have been entitled to the disability premium (regulation 9);
- (b) they make provision for boarders not to be treated as non-dependants if they live in the household of another claimant and for a deduction to be made from a claimant's housing costs in respect of boarders aged 18 or over (regulation 6); make a number of miscellaneous amendments to the provisions for determining a boarder's protected sum and provide for that sum not to be reduced by any increase in his applicable amount consequent on the new premiums exceeding his applicable amount (regulation 7);
- (c) they make provision for the applicable amount of persons in hostels not to include an amount in respect of accommodation and provide transitional protection for such persons who would otherwise suffer a loss in their benefit income (regulation 10); and make a minor amendment to references to the definition of “residential accommodation” (regulations 3 and 8).

These regulations are made before the expiry of 12 months from the commencement of the provisions under which they are made; they are accordingly exempt by virtue of Article 62(5) of the Social Security (Northern Ireland) Order 1986, from reference to the Social Security Advisory Committee.