

1993 No. 311

SOCIAL SECURITY

The Income Support (General) (Amendment No. 4) Regulations (Northern Ireland) 1993*Made* *9th July 1993**Coming into operation in accordance with regulation 1(1)*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1)(a), 131(1) and 132(4)(b) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(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. 4) Regulations (Northern Ireland) 1993 and shall come into operation as follows—

- (a) regulations 1 to 5 on 2nd August 1993;
- (b) regulation 6, in relation to any particular claimant, at the beginning of the first benefit week to commence for that claimant on or after 2nd August 1993.

(2) The expressions used in these regulations shall have the same meaning as they have in the principal regulations and in these regulations “the principal regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(b).

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

Amendment of regulation 70 of the principal regulations and savings for existing beneficiaries

2.—(1) Regulation 70 of the principal regulations (urgent cases) shall be further amended in accordance with paragraphs (2) and (3).

(2) In paragraph (3)—

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

“(b) is an asylum seeker for the purposes of paragraph 3A;”;

(a) 1992 c. 7

(b) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 Nos. 318 and 431, S.R. 1989 Nos. 365 and 395 and S.R. 1990 Nos. 131 and 346

(c) 1954 c. 33 (N.I.)

(b) sub-paragraph (d) shall be omitted.

(3) After paragraph (3), there shall be inserted the following paragraphs—

“(3A) For the purposes of this paragraph, a person—

(a) becomes an asylum seeker when he has submitted a claim for asylum to the Secretary of State that it would be contrary to the United Kingdom’s obligations under the Convention for him to be removed from, or required to leave, the United Kingdom and that claim is recorded by the Secretary of State as having been made; and

(b) ceases to be an asylum seeker when his claim is recorded by the Secretary of State as having been finally determined or abandoned.

(3B) In paragraph (3A), “the Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the protocol to that Convention.”.

(4) In the case of a claimant who was entitled to income support by virtue of regulation 70 of the principal regulations for the benefit week which includes 2nd August 1993, then in respect of each day after that date on which the claimant’s entitlement to income support continues, regulation 70 shall continue to apply in his case as if the preceding provisions of this regulation had not been made.

Amendment of paragraphs 7 and 8 of Schedule 3 to the principal regulations

3.—(1) Schedule 3 to the principal regulations (housing costs) shall be amended in accordance with paragraphs (2) to (4).

(2) In paragraph 7 (interest on loans to acquire an interest in the dwelling occupied as the home)—

(a) in sub-paragraph (3) for “sub-paragraphs (3A) to (6)” there shall be substituted “sub-paragraphs (3A) to (6B) and paragraphs 7A and 7B”;

(b) after sub-paragraph (6A) there shall be inserted the following sub-paragraphs—

“(6B) Where for the time being a loan exceeds, or in a case where more than one loan is to be taken into account, the aggregate amount of those loans exceeds the appropriate amount specified below for the purposes of this sub-paragraph, then the amount of the loan, or, as the case may be, the aggregate amount of those loans, shall for the purposes of this paragraph be the appropriate amount and only the interest attributable to that amount shall qualify as eligible interest.

(6C) Subject to sub-paragraphs (6D) to (6F) the appropriate amount specified for the purposes of sub-paragraph (6B) is—

(a) before 11th April 1994 £150,000;

(b) after 10th April 1994 £125,000.

(6D) Where a person is treated under paragraph 4(6) (circumstances in which a person is or is not to be treated as occupying

a dwelling as his home) as occupying 2 dwellings as his home, and has loans of a kind specified in sub-paragraphs (3) and (3A) or met under sub-paragraph (7) in respect of both those dwellings, then the restrictions imposed by sub-paragraph (6B) shall be applied separately to the loans for each dwelling, and the eligible interest for the purposes of this paragraph shall be the aggregate of the eligible interest for the loans on both dwellings.

(6E) In a case where paragraph 6 (apportionment of housing costs) applies, the appropriate amount for the purposes of sub-paragraph (6B) shall be the lower of—

(a) a sum determined by applying the formula—

$P \times Q$, where—

P = the relevant fraction for the purposes of paragraph 6, and

Q = the amount or, as the case may be, the aggregate amount for the time being of any loan or loans of a kind specified in sub-paragraphs (3) and (3A) or met under sub-paragraph (7), or

(b) the sum for the time being specified in sub-paragraph (6C).

(6F) In a case where sub-paragraph (5) applies, the appropriate amount for the purposes of sub-paragraph (6B) shall be the lower of—

(a) a sum representing for the time being the part of the loan applied for the purposes specified in sub-paragraphs (3) and (3A), or

(b) the sum for the time being specified in sub-paragraph (6C).”.

(3) After paragraph 7 there shall be inserted the following paragraphs—

“*Apportionment of qualifying loans*

7A.—(1) For the purposes of determining whether the appropriate amount for the time being specified for the purposes of paragraph 7(6B) has been exceeded, any loan taken out for a purpose specified in paragraph 8(1) shall, subject to paragraph 7B, be aggregated with any loan taken out for a purpose specified in paragraph 7(3) or (3A) or met under paragraph 7(7).

(2) Where in any case the amount for the time being specified for the purposes of paragraph 7(6B) is exceeded and there are 2 or more loans to be taken into account under either paragraph 7 or paragraph 8 or under the 2 paragraphs, then the amount of eligible interest in respect of each of those loans to the extent that the loans remain outstanding shall be determined as if each loan had been reduced to a sum equal to the qualifying portion of that loan.

(3) For the purposes of sub-paragraph (2), the qualifying portion of a loan shall be determined by applying the formula—

$$R \times \frac{S}{T}$$

where—

R = the amount for the time being specified for the purposes of paragraph 7(6B);

S = the amount of the outstanding loan to be taken into account, and

T = the aggregate of all outstanding loans to be taken into account under paragraphs 7 and 8.

(4) For the purposes of this paragraph a loan is to be taken into account only to the extent that eligible interest is payable on it.

Disabled persons

7B.—(1) Any loan taken out to adapt a dwelling for the special needs of a disabled person shall be disregarded in determining whether the appropriate amount for the time being specified for the purposes of paragraph 7(6B) is exceeded and an amount in respect of interest payable on such a loan shall be met in accordance with paragraph 8.

(2) For the purposes of sub-paragraph (1) a disabled person is a person—

(a) in respect of whom a disability premium, a disabled child premium, a pensioner premium for persons 75 or over or a higher pensioner premium is included in his applicable amount or the applicable amount of a person living with him, or

(b) who is a non-dependant but who, had he in fact been entitled to income support, would have had included in his applicable amount a disability premium, a disabled child premium, a pensioner premium for persons aged 75 or over or a higher pensioner premium.”

(4) In paragraph 8(1) at the beginning there shall be inserted “Subject to paragraph 7A,”.

Savings

4.—(1) In the case of a claimant who was entitled to income support for the benefit week which included 2nd August 1993 then, but subject to paragraph (3), in respect of each day after that date on which the claimant's entitlement to income support continues, Schedule 3 to the principal regulations (housing costs) shall continue to apply in his case as if regulation 3 of these regulations had not been made.

(2) Paragraph 7(9)(c) to (f) of Schedule 3 to the principal regulations shall apply to paragraph (1) as it applies to paragraph 7(1), but with the modification that for “in receipt of income support” in each place where those words occur there were substituted “entitled to income support” and that the words “Subject to sub-paragraphs (10) and (11)” were omitted.

(3) In its application to any loan taken out or increased after 2nd August 1993 Schedule 3 to the principal regulations shall have effect as amended by regulation 3 of these regulations.

(4) Paragraphs (1) and (3) shall apply from and including 11th April 1994 as if for “2nd August 1993” in each place where those words occur there were substituted “11th April 1994”.

Amendment of paragraph 10 of Schedule 3 to the principal regulations

5. In paragraph 10 of Schedule 3 to the principal regulations, after sub-paragraph (6) there shall be inserted the following sub-paragraphs—

“(6ZA) For the purposes of calculating any period of 6 months referred to in sub-paragraph (6), and for those purposes only, a person shall be treated as entitled to income support for any period of 8 weeks or less in respect of which he was not in receipt of income support and which fell immediately between periods in respect of which he was in receipt thereof.

(6ZB) Any period in respect of which—

(a) income support was paid to a person, and

(b) it was subsequently determined on appeal or review that he was not entitled to income support for that period,

shall be treated for the purposes of sub-paragraph (6ZA) as a period in respect of which he was not in receipt of income support.

(6ZC) Paragraph 7(9)(c) to (f) shall apply to sub-paragraph (6ZA) as it applies to paragraph 7(1) but with the modification that the words “Subject to sub-paragraphs (10) and (11)” were omitted and references to “the claimant” were references to the person mentioned in sub-paragraph (6ZA).”.

Amendment of Schedule 9 to the principal regulations

6. In Schedule 9 to the principal regulations (sums to be disregarded in the calculation of income other than earnings) in paragraph 29—

(a) in sub-paragraph (1)(a) for “under that paragraph” there shall be substituted “under paragraphs 7, 8 and 10 of Schedule 3”;

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

“(2) The amount to which sub-paragraph (1)(a) refers shall be taken into account in calculating the amount to be excluded under this paragraph only for such period during which either—

(a) there is applicable to the claimant 50 per cent. of his eligible interest under paragraph 7 of Schedule 3, or

(b) the amount of the loan to be taken into account is restricted by virtue of paragraph 7(6B) or 10 of Schedule 3.”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 9th July 1993.

(L.S.)

W. G. Purdy

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Income Support (General) Regulations (Northern Ireland) 1987.

Certain categories of persons from abroad as defined in regulation 21(3) of the Income Support (General) Regulations (Northern Ireland) 1987, have a reduced applicable amount calculated in accordance with regulation 70 of those regulations (urgent cases). Regulation 2 amends one of those categories so that asylum seekers, but not those seeking only a variation of their leave to enter the United Kingdom, qualify as urgent cases. There are savings for existing beneficiaries (paragraph (4)).

Regulation 3 excludes from the mortgage interest payments taken into account in determining a person's applicable amount, payments on so much of any loan or loans as exceed £150,000 as from 2nd August 1993 or £125,000 as from 11th April 1994. There are savings provisions for those entitled to income support on 2nd August 1993 with a loan or loans above that amount (regulation 4). Similar savings provisions apply to the 1994 change.

Regulation 5 provides a linking rule for the purposes of determining whether successive periods of 6 months, during which no restriction is placed upon the payment of high mortgage costs, are still current.

Regulation 6 provides for the disregard of certain payments made under a mortgage protection policy in the calculation of income other than earnings.

These regulations make in relation to Northern Ireland only provision corresponding 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 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.