

1993 No. 373

SOCIAL SECURITY

**The Income-Related Benefits (Amendment No. 4) Regulations
(Northern Ireland) 1993***Made 31st August 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 127(5), 128(8), 131(1), 132(1), (3), and (4)(b), 133(2)(c), (d), (e), (l) and (m) 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-Related Benefits (Amendment No. 4) Regulations (Northern Ireland) 1993 and shall come into operation as follows—

(a) regulations 1 and 4 on 4th October 1993;

(b) regulations 2 and 3 on 5th October 1993.

(2) Regulations 1 and 4 shall have effect in relation to any particular claimant at the beginning of the first benefit week to commence for that claimant on or after 4th October 1993 which applies in his case; and for this purpose the expressions “benefit week” and “claimant” have the same meanings as in the Income Support Regulations.

(3) Regulations 2 and 3 shall have effect in relation to any particular claimant—

(a) except where sub-paragraph (b) applies, on 5th October 1993; or

(b) where a claimant has an award of family credit or disability working allowance which is current on 4th October 1993, on the day following the expiration of that award.

(4) In these regulations—

“the Disability Working Allowance Regulations” means the Disability Working Allowance (General) Regulations (Northern Ireland) 1992(b);

“the Family Credit Regulations” means the Family Credit (General) Regulations (Northern Ireland) 1987(c);

(a) 1992 c. 7

(b) S.R. 1992 No. 78; relevant amending regulations are S.R. 1992 No. 403 and S.R. 1993 No. 120

(c) S.R. 1987 No. 463; relevant amending regulations are 1988 Nos. 131 and 423, S.R. 1990 Nos. 138, 297 and 387, S.R. 1992 Nos. 148 and 403 and S.R. 1993 No. 120

“the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(a).

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

Amendment of the Disability Working Allowance Regulations

2.—(1) The Disability Working Allowance Regulations shall be amended in accordance with paragraphs (2) to (12).

(2) In regulation 2 (interpretation)—

(a) after the definition of “the Child Support Order” there shall be inserted the following definition—

“ “the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992”;

(b) after the definition of “lower rate” there shall be inserted the following definition—

“ “maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Articles 15 and 28 to 30 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976(c);”;

(c) after the definition of “payment” there shall be inserted the following definition—

“ “personal pension scheme” has the same meaning as in Article 2(2) of the Order and, in the case of a self-employed earner, includes a scheme approved by the Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(d);”.

(3) In regulation 6 (remunerative work) for paragraph (6) there shall be substituted the following paragraph—

“(6) For the purposes of paragraph (5)—

(a) work which a person does only qualifies if—

(i) it is the work he normally does; and

(a) S.R. 1987 No. 459; relevant amending rules are S.R. 1988 Nos. 146, 274, 318 and 431, S.R. 1989 Nos. 139 and 365, S.R. 1990 Nos. 131, 297 and 387, S.R. 1992 Nos. 6, 147 and 403 and S.R. 1993 Nos. 28, 149, 150, 165 and 311

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

(c) S.I. 1976/2147 (N.I. 28); Article 15 was amended by paragraph 38 of Schedule 7 to the Nurses, Midwives and Health Visitors Act 1979 (c. 36), Article 13(1) and (2) of, and Schedule 3 to, the Industrial Relations (Northern Ireland) Order 1982 (S.I. 1982/528 (N.I. 8)) and paragraph 48 of Schedule 9 and Schedule 10 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)); Article 28 was amended by paragraph 15 of Schedule 5 to the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)); Article 29 was amended by Article 13(3) of the Industrial Relations (Northern Ireland) Order 1982 and Article 30 was amended by Schedule 2 to the Industrial Relations (Northern Ireland) Order 1982

(d) 1988 c. 1

(ii) it is likely to last for a period of 5 weeks or more beginning with the week of claim, and

(b) a person shall be treated as not on a recognised, customary or other holiday on any day on which the person is on maternity leave or is absent from work because he is ill.”

(4) In regulation 11 (circumstances in which a person is to be treated as being no longer a member of the same household) for paragraph (1) there shall be substituted the following paragraph—

“(1) Subject to paragraphs (2) and (3), where the claimant and any partner of his are living apart from each other they shall be treated as members of the same household unless they do not intend to resume living together.”

(5) In regulation 18 (normal weekly income other than earnings)—

(a) in paragraph (1) for “a claimant’s normal weekly income which does not consist of earnings” there shall be substituted “where a claimant’s normal weekly income does not consist of earnings, or includes income that does not consist of earnings, that income”;

(b) in paragraph (2)(a) after “at regular intervals” there shall be inserted “and of regular amounts”;

(c) in paragraph (2A)(a)—

(i) in sub-paragraph (a) after “at regular intervals” there shall be inserted “and of regular amounts”;

(ii) in sub-paragraph (b) after “not so made,” there shall be inserted “except in a case to which sub-paragraph (c) applies,”;

(iii) after sub-paragraph (b) there shall be inserted the following sub-paragraph—

“(c) where the maintenance assessment has been notified to the claimant under regulation 10 of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(b) during the 13 weeks immediately preceding the week of claim, by reference to the average of such payments, calculated on a weekly basis, received in the interim period,”;

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

“(c) “the interim period” means the week in which the date of notification of the maintenance assessment falls and the subsequent period up to and including the week immediately preceding the week of claim.”

(6) In regulation 25 (calculation of net profit of self-employed earners)—

(a) for “one half of any qualifying premium payable” in each place where those words occur there shall be substituted “one half of any

(a) Paragraph (2A) was inserted by S.R. 1993 No. 120

(b) S.R. 1992 No. 340

premium paid in respect of a retirement annuity contract or a personal pension scheme”;

- (b) for paragraph (14) there shall be substituted the following paragraph—

“(14) In this regulation “retirement annuity contract” means an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision of a life annuity in old age or the provision of an annuity for a partner or dependant and in respect of which relief from income tax may be given on any premium.”.

(7) In regulation 27(1) (calculation of income other than earnings) for the words from “regulation 28” to the end there shall be substituted “regulations 28 and 30 (capital treated as income and modifications in respect of children and young persons).”.

(8) In regulation 30 (modifications in respect of children and young persons)—

(a) in paragraph (1) “, except where otherwise provided,” shall be omitted;

(b) in paragraph (2) for “the foregoing provisions” there shall be substituted “Chapters I to V”;

(c) in paragraph (3) for “except where otherwise provided” there shall be substituted “except as provided in paragraph (1)”.

(9) In regulation 41 (interpretation) in the definition of “a course of advanced education” for “Technician” in both places where it occurs there shall be substituted “Technology”.

(10) In regulation 51(4) (determination of appropriate maximum disability working allowance) for “except where otherwise provided” there shall be substituted “except as provided in regulation 30(1) (modifications in respect of children and young persons)”.

(11) In Schedule 3 (sums to be disregarded in the calculation of income other than earnings) in paragraph 14(a) after “such a pension” there shall be inserted “, except in so far as such a pension or payment falls to be disregarded under paragraph 6 or 7”.

(12) In Schedule 4 (capital to be disregarded)—

(a) in paragraph 21 after “(capital treated as income)” there shall be inserted “, 30(1) (modifications in respect of children and young persons)”;

(b) in paragraph 32 for “Any payment not exceeding £200” there shall be substituted “£200 of any payment, or, if the payment is less than £200, the whole of any payment”.

Amendment of the Family Credit Regulations

3.—(1) The Family Credit Regulations shall be amended in accordance with paragraphs (2) to (12).

(2) In regulation 2 (interpretation)—

- (a) after the definition of “the Child Support Order” there shall be inserted the following definition—
“ “the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992”;
- (b) after the definition of “lower rate” there shall be inserted the following definition—
“ “maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Articles 15 and 28 to 30 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976;”;
- (c) after the definition of “payment” there shall be inserted the following definition—
“ “personal pension scheme” has the same meaning as in Article 2(2) of the Order and, in the case of a self-employed earner, includes a scheme approved by the Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988;”.
- (3) In regulation 4 (remunerative work) for paragraph (6) there shall be substituted the following paragraph—
“(6) For the purposes of paragraph (5)—
(a) work which a person does only qualifies if—
(i) it is the work he normally does; and
(ii) it is likely to last for a period of 5 weeks or more beginning with the week of claim, and
(b) a person shall be treated as not on a recognised, customary or other holiday on any day on which the person is on maternity leave or is absent from work because he is ill.”.
- (4) In regulation 9 (circumstances in which a person is to be treated as being no longer a member of the same household) for paragraph (1) there shall be substituted the following paragraph—
“(1) Subject to paragraphs (2) and (3), where the claimant and any partner of his are living apart from each other they shall be treated as members of the same household unless they do not intend to resume living together.”.
- (5) In regulation 16 (normal weekly income other than earnings)—
(a) in paragraph (1) for “a claimant’s normal weekly income which does not consist of earnings” there shall be substituted “where a claimant’s normal weekly income does not consist of earnings, or includes income that does not consist of earnings, that income”;
- (b) in paragraph (2)(a) after “at regular intervals” there shall be inserted “and of regular amounts”;

(c) in paragraph (2A)(a)—

- (i) in sub-paragraph (a) after “at regular intervals” there shall be inserted “and of regular amounts”;
- (ii) in sub-paragraph (b) after “not so made,” there shall be inserted “except in a case to which sub-paragraph (c) applies,”;
- (iii) after sub-paragraph (b) there shall be inserted the following sub-paragraph—

“(c) where the maintenance assessment has been notified to the claimant under regulation 10 of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 during the 13 weeks immediately preceding the week of claim, by reference to the average of such payments, calculated on a weekly basis, received in the interim period,”;

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

“(c) “the interim period” means the week in which the date of notification of the maintenance assessment falls and the subsequent period up to and including the week immediately preceding the week of claim.”.

(6) In regulation 22 (calculation of net profit of self-employed earners)—

(a) for “one half of any qualifying premium payable” in each place where those words occur there shall be substituted “one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme”;

(b) for paragraph (12) there shall be substituted the following paragraph—

“(12) In this regulation “retirement annuity contract” means an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision of a life annuity in old age or the provision of an annuity for a partner or dependant and in respect of which relief from income tax may be given on any premium.”.

(7) In regulation 24(1) (calculation of income other than earnings) for the words from “regulation 25” to the end there shall be substituted “regulations 25 and 27 (capital treated as income and modifications in respect of children and young persons).”.

(8) In regulation 27 (modifications in respect of children and young persons)—

(a) in paragraph (1) “, except where otherwise provided,” shall be omitted;

(b) in paragraph (2) for “the foregoing provisions” there shall be substituted “Chapters I to V”;

(c) in paragraph (3) for “except where otherwise provided” there shall be substituted “except as provided in paragraph (1)”.

(9) In regulation 37 (interpretation) in the definition of “a course of advanced education” for “Technician” in both places where it occurs there shall be substituted “Technology”.

(10) In regulation 46(4) (determination of appropriate maximum family credit) for “except where otherwise provided” there shall be substituted “except as provided in regulation 27(1) (modifications in respect of children and young persons)”.

(11) In Schedule 2 (sums to be disregarded in the calculation of income other than earnings) in paragraph 14(a) after “such a pension” there shall be inserted “, except in so far as such a pension or payment falls to be disregarded under paragraph 6 or 7”.

(12) In Schedule 3 (capital to be disregarded)—

(a) for paragraph 21 there shall be substituted the following paragraph—

“21. Any capital which by virtue of regulation 25 (capital treated as income), 27(1) (modifications in respect of children and young persons) or 42A (treatment of student loans) is to be treated as income.”;

(b) in paragraph 32 for “Any payment not exceeding £200” there shall be substituted “£200 of any payment, or, if the payment is less than £200, the whole of any payment”.

Amendment of the Income Support Regulations

4.—(1) The Income Support Regulations shall be amended in accordance with paragraphs (2) to (23).

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “the Child Support Order” there shall be inserted the following definition—

“ “the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992”;

(b) after the definition of “course of study” there shall be inserted the following definition—

“ “date of claim” means the date on which the claimant makes, or is treated as making, a claim for income support for the purposes of regulation 6 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(a);”;

(c) after the definition of “lower rate” there shall be inserted the following definition—

“ “maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either

(a) S.R. 1987 No. 465; relevant amending regulations are S.R. 1988 No. 141, S.R. 1989 No. 398, S.R. 1990 Nos. 137 and 398, S.R. 1991 No. 488 and S.R. 1992 No. 7

under the terms of her contract of employment or under Articles 15 and 28 to 30 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976;”;

(d) after the definition of “period of study” there shall be inserted the following definition—

“ “personal pension scheme” has the same meaning as in Article 2(2) of the Order and, in the case of a self-employed earner, includes a scheme approved by the Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988;”.

(3) In regulation 5 (persons treated as engaged in remunerative work)—

(a) after paragraph (3) there shall be inserted the following paragraph—

“(3A) A person shall not be treated as engaged in remunerative work on any day on which the person is on maternity leave or is absent from work because he is ill.”;

(b) in paragraph (6) for “(f)” there shall be substituted “(j)”.

(4) In regulation 12(2) (relevant education) for “Technician” in both places where it occurs there shall be substituted “Technology”.

(5) In regulation 15 (circumstances in which a person is to be treated as responsible or not responsible for another) for paragraphs (1) and (2) there shall be substituted the following paragraphs—

“(1) Subject to paragraphs (1A) to (4), a person is to be treated as responsible for a child or young person for whom he is receiving child benefit.

(1A) In a case where a child (“the first child”) is in receipt of child benefit in respect of another child (“the second child”), the person treated as responsible for the first child in accordance with the provisions of this regulation shall also be treated as responsible for the second child.

(2) In the case of a child or young person in respect of whom no person is receiving child benefit, the person who shall be treated as responsible for that child or young person shall be—

(a) except where sub-paragraph (b) applies, the person with whom the child or young person usually lives; or

(b) where only one claim for child benefit has been made in respect of the child or young person, the person who made that claim.”.

(6) In regulation 16 (circumstances in which a person is to be treated as being or not being a member of the household)—

(a) in paragraph (1) for “is absent from the dwelling occupied as his home” there shall be substituted “is temporarily living away from the other members of his family”;

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

“(2) Paragraph (1) shall not apply to a person who is living away from the other members of his family where—

(a) that person does not intend to resume living with the other members of his family; or

- (b) his absence from the other members of his family is likely to exceed 52 weeks, unless there are exceptional circumstances (for example the person is in hospital or otherwise has no control over the length of his absence), and the absence is unlikely to be substantially more than 52 weeks.”.

(7) In regulation 17(1)(b) (applicable amounts) for “except where otherwise provided” there shall be substituted “except as provided in regulation 44(1) (modifications in respect of children and young persons)”.

(8) In regulation 18(1)(c) (polygamous marriages) for “except where otherwise provided” there shall be substituted “except as provided in regulation 44(1) (modifications in respect of children and young persons)”.

(9) In regulation 19 (persons in residential care homes and nursing homes)—

(a) in paragraph (1ZC)(b)(a) for “or by any member” there shall be substituted “or of any member”;

(b) in paragraph (1ZF)—

(i) in sub-paragraph (a) for “, or by a member” there shall be substituted “or of any member” and for “and are provided” there shall be substituted “or are provided”;

(ii) in sub-paragraph (b) for “, or by a member” there shall be substituted “or of any member”;

(c) after paragraph (1ZH) there shall be inserted the following paragraphs—

“(1ZI) Where a person—

(a) formerly had a preserved right by virtue of paragraph (1ZB);

(b) on 1st April 1993 was living in a home which was exempt from registration under Part II of the Registered Homes Order pursuant to Article 4(4)(a) of that Order (requirement of registration) because one or more of the residents were treated as relatives pursuant to Article 2(6) of that Order;

(c) is living in that home on 4th October 1993; and

(d) between 1st April 1993 and 4th October 1993 he has not been absent from that home, or has been absent from it for a period not exceeding 13 weeks,

then subject to paragraph (1ZJ) that person shall be treated for the purposes of this regulation as though he had a preserved right on and after 4th October 1993.

(1ZJ) Paragraph (1ZI) shall cease to apply to a person who is treated as though he had a preserved right where he is absent from a residential care home or nursing home and that absence exceeds a period of—

(a) except in a case to which sub-paragraph (b) applies, 13 weeks;
or

(b) 52 weeks where throughout the period of absence the person was a patient.”;

(d) in paragraph (2) in the definition of “residential care home”—

- (i) at the end of sub-paragraph (b) “or” shall be omitted;
- (ii) in sub-paragraph (c) for “Board),” there shall be substituted “Board), or”;
- (iii) after sub-paragraph (c) there shall be inserted the following sub-paragraph—

“(d) which is exempt from registration under Part II of the Registered Homes Order pursuant to Article 4(4)(a) of that Order (requirement of registration) because one or more of the residents are treated as relatives pursuant to Article 2(6) of that Order.”.

(10) In regulation 30(1) (calculation of earnings of self-employed earners)—

- (a) in sub-paragraph (a) for “52 weeks” there shall be substituted “a year”;
- (b) in sub-paragraph (b) “of weeks” shall be omitted.

(11) In regulation 35(2)(b) (earnings of employed earners) for the words from “who for the time being is” to the end there shall be substituted “in respect of a period throughout which the claimant is on maternity leave or is absent from work because he is ill;”.

(12) In regulation 38 (calculation of net profit of self-employed earners)—

- (a) for “one half of any qualifying premium payable” in each place where those words occur there shall be substituted “one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme”;
- (b) for paragraph (12) there shall be substituted the following paragraph—

“(12) In this regulation “retirement annuity contract” means an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision of a life annuity in old age or the provision of an annuity for a partner or dependant and in respect of which relief from income tax may be given on any premium.”.

(13) In regulation 39(2) (deduction of tax and contributions for self-employed earners) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

- “(a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the Contributions and Benefits Act at the rate applicable at the date of claim except where the claimant’s chargeable income is less than the amount specified in section 11(4) of that Act (small earnings exception) for the tax year in which the date of claim falls; but if the assessment period

is less than a year, the amount specified for that tax year shall be reduced pro rata; and

- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of that Act (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable at the date of claim on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year in which the date of claim falls; but if the assessment period is less than a year, those limits shall be reduced pro rata.”.

(14) In regulation 44 (modifications in respect of children and young persons)—

- (a) in paragraph (1) “, except where otherwise provided,” shall be omitted;
- (b) in paragraph (4) for “the foregoing provisions” there shall be substituted “Chapters I to V”;
- (c) in paragraph (5) for “except where otherwise provided” there shall be substituted “except as provided in paragraph (1)”.

(15) In regulation 61 (interpretation) in the definition of “a course of advanced education” for “Technician” in both places where it occurs there shall be substituted “Technology”.

(16) In regulation 71(1) (applicable amounts in urgent cases)—

- (a) in sub-paragraph (a) after head (v) there shall be added the following head—
“(vi) the amount, if applicable, specified in paragraph 2A of Schedule 2;”;
- (b) in sub-paragraph (b) before “, his weekly applicable amount” there shall be inserted “and has a preserved right”;
- (c) in sub-paragraph (c)(i) “in respect of personal expenses as is” shall be omitted.

(17) In Schedule 2 (applicable amounts)—

- (a) in paragraph 2A(4) for the words from “and which” to the end there shall be substituted “and whose primary function is to provide palliative care for persons resident there who are suffering from a progressive disease in its final stages.”;
- (b) paragraph 13(3)(b) (severe disability premium) shall be omitted;
- (c) in paragraph 14(a) (disabled child premium) for “except where otherwise provided” there shall be substituted “except as provided in regulation 44(1) (modifications in respect of children and young persons)”.

(18) In Schedule 3 (housing costs)—

- (a) in paragraph 1—
- (i) in sub-paragraph (e) for “stands.” there shall be substituted “stands;”;
- (ii) at the end there shall be added the following sub-paragraph—

“(g) payments by way of rentcharge.”;

(b) in paragraph 5(b) for “to which regulation 19 (applicable amounts for persons in homes for persons in need and nursing homes) applies” there shall be substituted “which is a residential care home or a nursing home for the purposes of regulation 19 (persons in residential care homes and nursing homes)”;

(c) in paragraph 9—

(i) in sub-paragraph (1) for “(c) to (f)” there shall be substituted “(c) to (g)”;

(ii) in sub-paragraphs (3) and (4) for “(c) to (e)” in each place where those words occur there shall be substituted “(c) to (g)”.

(19) In Schedule 4 (applicable amounts for persons in residential care homes and nursing homes) in paragraph 6—

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

“(b) he—

(i) is entitled to attendance allowance at the higher rate in accordance with section 65(3) of the Contributions and Benefits Act, or the care component of disability living allowance at the highest rate prescribed in accordance with section 72(3) of that Act, or

(ii) has made a claim for attendance allowance or disability living allowance and, in respect of that claim, a decision has been made that he satisfies the disability conditions, but he has not yet completed the qualifying period for that benefit; or”;

(b) after sub-paragraph (2) there shall be added the following sub-paragraph—

“(3) In this paragraph—

(a) “the disability conditions” means—

(i) in the case of attendance allowance, the conditions in section 64(2) and (3) of the Contributions and Benefits Act, and

(ii) in the case of disability living allowance, the conditions in section 72(1)(b) and (c) of the Contributions and Benefits Act;

(b) “the qualifying period” means—

(i) in the case of attendance allowance, the period specified in section 65(1)(b) of the Contributions and Benefits Act, and

(ii) in the case of disability living allowance, the period specified in section 72(2)(a) of the Contributions and Benefits Act.”.

(20) In Schedule 7 (applicable amounts in special cases)—

(a) in column (2) of the following provisions for “£11.20” there shall be substituted “£12.65”—

- (i) paragraph 10A(a) (single claimants temporarily in accommodation provided by a Health and Social Services Board);
 - (ii) paragraph 10B (1), (2), and (3) (couples and members of polygamous marriages where one member is, or all are, temporarily in accommodation provided by a Health and Social Services Board);
 - (iii) paragraph 10C(b) (lone parents who are in residential accommodation temporarily);
 - (iv) paragraph 13(1)(a) (persons in residential accommodation);
- (b) in column (1) of paragraph 14 (persons temporarily absent from a residential care home or nursing home) for the words from “Where a person” to “would apply and” there shall be substituted “Where a person is temporarily absent from accommodation for which he is liable to pay a retaining fee, and but for his temporary absence from that accommodation his applicable amount would be calculated in accordance with regulation 19 (persons in residential care homes and nursing homes), and”.
- (21) In Schedule 8 (sums to be disregarded in the calculation of earnings)—
- (a) in paragraph 1 for sub-paragraph (b) there shall be substituted the following sub-paragraph—
 - “(b) where—
 - (i) the employment has not been terminated, but
 - (ii) the claimant is not engaged in remunerative work,
 any earnings in respect of that employment except earnings to which regulation 35(1)(d) and (e) applies; but this sub-paragraph shall not apply where the claimant has been suspended from his employment.”;
 - (b) for paragraph 2 there shall be substituted the following paragraph—
 - “2. In the case of a claimant who, before the date of claim—
 - (a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Northern Ireland, would have been so engaged had the employment been in Northern Ireland, and
 - (b) has ceased to be engaged in that employment, whether or not that employment has been terminated,
 any earnings in respect of that employment except any payment to which regulation 35(1)(e) applies; but this paragraph shall not apply where the claimant has been suspended from his employment.”.
- (22) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—
- (a) paragraph 9A shall be omitted;

(a) Paragraphs 10A and 10B were inserted by regulation 34(b) of S.R. 1988 No. 146

(b) Paragraph 10C was inserted by regulation 19(c) of S.R. 1988 No. 431

(b) in paragraph 15—

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

“(1) Subject to sub-paragraph (3) and paragraphs 36, 37 and 39, £10 of any charitable payment or of any voluntary payment made or due to be made at regular intervals, except any payment to which sub-paragraph (2) or paragraph 15A applies.”;

- (ii) in sub-paragraph (2) for “sub-paragraph (3)” there shall be substituted “sub-paragraphs (3) and (6)”;

- (iii) for sub-paragraph (6) there shall be substituted the following sub-paragraph—

“(6) Sub-paragraph (2) shall apply to a claimant in a residential care home or nursing home only if his applicable amount falls to be calculated in accordance with regulation 19.”;

- (c) in paragraph 16(a) after “such a pension” there shall be added “, except in so far as such a pension or payment falls to be disregarded under paragraph 8 or 9”;

(d) in paragraph 29—

- (i) in sub-paragraph (1) at the beginning there shall be inserted “Subject to sub-paragraph (3),”;

- (ii) after sub-paragraph (2) there shall be added the following sub-paragraph—

“(3) This paragraph shall not apply to any payment which is treated as possessed by the claimant by virtue of regulation 42(4)(a)(ii) (notional income).”;

- (e) after paragraph 30 there shall be inserted the following paragraph—

“**30A.**—(1) Subject to sub-paragraphs (2) and (3), in the case of a claimant in a residential care home or nursing home, any payment, whether or not the payment is charitable or voluntary but not a payment to which paragraph 15A applies, made to the claimant which is intended to be used and is used to meet the cost of maintaining the claimant in that home.

(2) This paragraph shall not apply to a claimant for whom accommodation in a residential care home or nursing home is provided by the Department under Article 15 or 36 of the 1972 Order^(a) or whose applicable amount falls to be calculated in accordance with regulation 19.

(3) The amount to be disregarded under this paragraph shall not exceed the difference between—

(a) Article 15 was extended by sections 1 and 2 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 and amended by Schedule 5 to the Health and Personal Social Services (Northern Ireland) Order 1991 and paragraph 2(2) of Schedule 1 to the Registered Homes (Northern Ireland) Order 1992. Article 36 was substituted by Article 25 of the Health and Personal Social Services (Northern Ireland) Order 1991 and amended by paragraph 2(3) to (5) of Schedule 1 to the Registered Homes (Northern Ireland) Order 1992.

(a) the claimant's applicable amount less any of the amounts referred to in paragraph 12 of Schedule 4 (personal allowances) which would be applicable to the claimant if his applicable amount fell to be calculated in accordance with that Schedule; and

(b) the weekly charge for the accommodation."

(23) In Schedule 10 (capital to be disregarded) in paragraph 30 for "Any payment not exceeding £200" there shall be substituted "£200 of any payment, or, if the payment is less than £200, the whole of any payment".

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 31st August 1993.

(L.S.)

W. G. Purdy

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Disability Working Allowance (General) Regulations (Northern Ireland) 1992, the Family Credit (General) Regulations (Northern Ireland) 1987 and the Income Support (General) Regulations (Northern Ireland) 1987. In particular they—

- (a) provide definitions of "the Contributions and Benefits Act", "maternity leave" and "personal pension scheme" (regulations 2(2), 3(2) and 4(2));
- (b) make a minor amendment to the definition of "advanced education" (regulations 2(9), 3(9), 4(4) and 4(15));
- (c) amend the provisions specifying the circumstances in which a person is to be treated as being or not being a member of the household (regulations 2(4), 3(4) and 4(6));
- (d) make minor amendments with respect to the calculation of the income and capital of a child (regulations 2(8) and (10), 3(8) and (10), 4(7), (8), (14) and (17)(c));
- (e) provide that, in the calculations of net profits of the self-employed, a proportion of any premium paid towards a personal pension scheme shall be disregarded (regulations 2(6), 3(6) and 4(12));
- (f) with respect to the calculation of income other than earnings, provide that the disregard of a specified amount of certain war pensions and payments is not to apply where the pension or payment falls to be disregarded under other specified provisions (regulations 2(11), 3(11) and 4(22));
- (g) with respect to the calculation of capital, specify that £200 of certain payments made as a training bonus are to be disregarded (regulations 2(12)(b), 3(12)(b) and 4(23)).

With respect to disability working allowance and family credit they—

- (a) provide that a person who is absent from work owing to illness or maternity shall not be regarded as on holiday (regulations 2(3) and 3(3));
- (b) amend the provisions specifying the method of calculation of normal weekly income other than earnings (regulations 2(5), 2(7), 3(5) and 3(7));
- (c) make minor amendments with respect to the disregard of any capital which is treated as income (regulations 2(12)(a) and 3(12)(a)).

With respect to income support they—

- (a) provide a definition of “date of claim” (regulation 4(2)(b));
- (b) provide that a person who is absent from work owing to illness or maternity is not to be treated as engaged in remunerative work (regulation 4(3));
- (c) amend the provisions specifying the circumstances in which a person is to be treated as responsible for a child or young person (regulation 4(5));
- (d) with respect to the calculation of applicable amounts for people in residential care and nursing homes who have preserved rights, amend the definition of “residential care home” for this purpose and make other consequential and minor amendments, they also amend the provision specifying the maximum levels payable for people in residential care homes (regulations 4(9) and 4(19));
- (e) alter from 52 weeks to a year the period by reference to which the earnings of the self-employed are to be determined (regulation 4(10));
- (f) with respect to the calculation of earnings of self-employed earners, amend the provisions specifying the amount to be deducted in respect of social security contributions (regulation 4(13));
- (g) amend the provisions which specify the calculation of applicable amounts in urgent cases (regulation 4(16));
- (h) with respect to the applicable amount, amend the definition of “hospice”, which affects entitlement to the residential allowance, and they amend the conditions relating to the severe disability premium (regulation 4(17)(a) and (b));
- (i) with respect to housing costs, add rentcharges to the list of eligible costs, and they amend the provision specifying that costs in respect of residential care or nursing homes are excluded (regulation 4(18));
- (j) alter the element of personal expenses contained in the applicable amount of people in specified types of accommodation, and they make minor amendments to the circumstances in which a person’s applicable amount may include a retaining fee in respect of a residential care or nursing home (regulation 4(20));
- (k) with respect to the calculation of earnings of employed earners, amend the provision relating to the disregard of certain earnings where

the employment has been terminated or the claimant has ceased to be engaged in work (regulation 4(21));

- (d) with respect to the calculation of income other than earnings, amend the provisions specifying that certain payments are not to be treated as earnings, they make a minor amendment in relation to the disregard of disability living allowance, they provide additional disregards in respect of certain payments made to people in residential care and nursing homes, and they amend the provision specifying that certain payments under mortgage protection policies are to be disregarded (regulations 4(11) and 4(22)).

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.

1993 No. 374

This Order has been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. A summary is given in the List of Statutory Rules of a Local Character under the heading ROADS.