

1995 No. 286

HEALTH AND PERSONAL SOCIAL SERVICES**The Health and Personal Social Services (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1995**

Made 18th July 1995

Coming into operation 4th September 1995

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 36(6) and 99(5) of the Health and Personal Social Services (Northern Ireland) Order 1972(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 Health and Personal Social Services (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1995 and shall come into operation on 4th September 1995.

(2) In these regulations “the principal regulations” means the Health and Personal Social Services (Assessment of Resources) Regulations (Northern Ireland) 1993(b).

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation)—

(a) the definitions of “invalidity pension” and “sickness benefit” shall be omitted; and

(b) after the definition of “the Fund” there shall be inserted:

“ “incapacity benefit” means incapacity benefit under section 30A of the Contributions and Benefit Act(c);

Amendment of Schedule 2 to the principal regulations

3.—(1) In paragraph 3(2)(b)(i) of Schedule 2 to the principal regulations (sums to be disregarded) for the words, “an invalidity pension,” there shall be substituted the words “long-term incapacity benefit,”.

(2) For paragraph 3(2)(b)(v) of Schedule 2 to the principal regulations there shall be substituted the following—

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- (a) S.I. 1972/1265 (N.I. 14); Article 36 was substituted by Article 25 of S.I. 1991/194 (N.I. 1), and then amended by paragraph 2(4) and (5) of Schedule 1 to S.I. 1992/3204 (N.I. 20); and Article 99 was substituted by Article 27 of S.I. 1991/194 (N.I. 1)
- (b) S.R. 1993 No. 127, as amended by S.R. 1993 No. 234, S.R. 1993 No. 438, Schedule 5 to S.R. 1994 No. 65 and S.R. 1994 No. 160
- (c) In S.R. 1993 No. 127 this means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) section 30A was inserted by Article 3(1) of S.I. 1994/1898 (N.I. 12)

“(v) has, in respect of a claim for incapacity benefit or severe disablement allowance, provided medical evidence at least 28 weeks previously and it has not been determined that he is not entitled to the benefit or allowance, or”.

Amendment of Schedule 3 to the principal regulations

4. In paragraph 27 of Schedule 3 to the principal regulations (housing costs of a temporary resident to be disregarded) the words “to which he intends to return” shall be omitted.

5. At the end of Part I of Schedule 3 to the principal regulations (sums to be disregarded in the calculation of income other than earnings) there shall be added the following paragraph—

“**27B.** Any payment which would be disregarded under paragraphs 54 to 56 of Schedule 9 to the Income Support Regulations(a).”.

Sealed with the Official Seal of the Department of Health and Social Services on 18th July 1995.

(L.S.)

Hugh P. Simpson

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the regulations.)

These regulations make further amendments to the Health and Personal Social Services (Assessment of Resources) Regulations (Northern Ireland) 1993 ("the principal regulations") which relate to the assessment by Health and Social Services Boards and HSS trusts of the resources of residents in accommodation arranged under Article 15 and 36 of the Health and Personal Social Services (Northern Ireland) Order 1972.

Regulation 3 replaces the provision in Schedule 2 to the principal regulations specifying a disregard relating to sickness benefit, invalidity pension or severe disablement allowance with one which relates to incapacity benefit or severe disablement allowance. This is as a result of the coming into operation of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 which replaces sickness and invalidity benefits with incapacity benefit. In order to have an amount disregarded in the calculation of his earnings a person is required to have provided, in support of a claim for incapacity benefit or severe disablement allowance, medical evidence at least 28 weeks previously without it having been determined that he is not entitled to the benefit or allowance. Regulation 2 is consequential on regulation 3.

Regulation 4 removes a provision in Part I of Schedule 3 to the principal regulations whereby fuel charges included in the housing costs of a person temporarily in accommodation arranged by a Health and Social Services Board or HSS trust could be disregarded only if the temporary resident intended to return to the dwelling in respect of which they were payable.

Regulation 5 amends Part I of Schedule 3 to the principal regulations to provide a disregard in the calculation of income other than earnings of a resident of accommodation arranged by a Health and Social Services Board or HSS trust in respect of certain payments to widows under the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983, the Personal Injuries (Civilians) Scheme 1983 and certain Dispensing Instruments.