
STATUTORY RULES OF NORTHERN IRELAND

1994 No. 485

SOCIAL SECURITY

The Social Security (Incapacity Benefit — Increases for Dependants) Regulations (Northern Ireland) 1994

*Made - - - - 14th December 1994
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 3(2), 80(7), 86A, 87, 89, 90, 114(1) and 121(5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1) and of all other powers enabling it in that behalf, hereby makes the following regulations:

**PART I
GENERAL**

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Incapacity Benefit — Increases for Dependants) Regulations (Northern Ireland) 1994 and shall come into operation as follows—

- (a) regulations 1 to 15(6)(a), (6)(b)(ii) and (c)(ii), (7) and (8) on 13th April 1995; and
- (b) regulation 15(6)(b)(i) and (c)(i) on 13th May 1995.

(2) In these regulations—

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992(2);

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

“benefit week” means a period of seven days ending with the day on which the benefit is due to be paid;

(1) 1992 c. 7; section 86A was inserted by Article 4(4) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)); sections 87 and 89 are amended by paragraphs 24 and 26 respectively of Schedule 1 to that Order with effect from 6th April 1995

(2) 1992 c. 8

“entitled to child benefit” includes treated as so entitled;

“parent” has the meaning that it bears for the purposes of Part IX of the Contributions and Benefits Act;

“standard rate of increase” means the amount specified in column (3) of Part IV of Schedule 4 to the Contributions and Benefits Act which is appropriate in the case of the beneficiary.

- (3) In these regulations, except where the context otherwise requires—
- (a) a reference to a numbered regulation is a reference to the regulation in these regulations which bears that number; and
 - (b) a reference in a regulation to a numbered paragraph is a reference to the paragraph in that regulation which bears that number.

Provisions as to maintenance for the purposes of increase of benefit in respect of dependants

2.—(1) Subject to paragraph (2), a beneficiary shall not, for the purposes of the Contributions and Benefits Act, in so far as they relate to incapacity benefit and of those regulations, be deemed to be wholly or mainly maintaining another person unless the beneficiary—

- (a) when incapable of work, contributes towards the maintenance of that person an amount not less than the amount of increase of benefit received in respect of that person; and
- (b) when in employment, or not incapable of work, (except in a case where the dependency did not arise until after that time) contributed more than half of the actual cost of maintenance of that person.

(2) In a case where—

- (a) a person is partly maintained by each of two or more other persons each of whom could be entitled to an increase of benefit under the Contributions and Benefits Act in respect of that person if he were wholly or mainly maintaining that person; and
- (b) the contributions made by those other persons towards the maintenance of that person amount in the aggregate to sums which, if they were contributed by one of them, would be sufficient to satisfy the requirements of paragraph (1),

that person shall, for the purposes of that Act in so far as they relate to incapacity benefit, be deemed to be wholly or mainly maintained by that one of the said other persons who—

- (i) makes the larger or largest contribution to the maintenance of that person, or
- (ii) in a case where no person makes the larger or largest contribution, is the elder or eldest of the said other persons, or
- (iii) in any case, is a person designated in that behalf by a notice in writing signed by a majority of the said other persons and addressed to the Department,

so long as that one of the said other persons continues to be entitled to benefit under that Act and to satisfy the condition contained in paragraph (1)(a).

(3) A notice given under paragraph (2) and the designation contained in it may be revoked at any time by a fresh notice signed by a majority of such persons and another one of their number may be designated thereby, and accordingly, the provisions of that paragraph shall apply to the one so last designated.

Allocation of contributions for a spouse or child

3.—(1) Subject to paragraphs (2) and (3), for the purposes of the Contributions and Benefits Act in so far as they relate to incapacity benefit, any sum paid by a person by way of contribution towards—

- (a) the maintenance of his spouse,
- (b) the cost of providing for a relevant child; or
- (c) both that maintenance and that cost,

shall be treated for the purposes of section 81(2)(b) of that Act (restrictions on increase — child not living with beneficiary, etc.) and regulations 9 and 12 as such contributions of such respective amounts equal in the aggregate to the sum in respect of his spouse or any relevant child, as may be determined by the adjudicating authority so as to secure as large a payment as possible byway of benefit in respect of dependents.

(2) Any sum paid by way of contribution towards the maintenance of a spouse shall not be treated by virtue of this regulation as a sum paid by way of contribution towards the cost of providing for a relevant child, and any sum paid by way of contribution towards the cost of providing for a relevant child shall not be treated as a sum paid by way of contribution towards the maintenance of a spouse, unless in either case the spouse is entitled to child benefit in respect of that relevant child.

(3) In this regulation—

“adjudicating authority” means any person or body with responsibility under the Administration Act and regulations made under that Act, for the determination of claims for benefit and questions arising in connection with a claim for, or award of, or disqualification for receiving, benefits;

“relevant child” means a child in respect of whom, in the period for which the sum in question is paid by a person, that person is entitled to child benefit or would have been so entitled had he contributed to the cost of providing for the child at a sufficient weekly rate.

Deeming abated benefit to be a contribution for the maintenance of child or adult dependants

4. Where, for any period, a person (in this regulation referred to as A) is entitled to, or to an increase in the amount of, any benefit prescribed under section 72(3)(a) of the Administration Act (income support and other payments) in respect of another person (in this regulation referred to as B) and the amount of, or of the increase in, any, such benefit is abated under that section, then in determining for the purpose of the Contributions and Benefits Act whether A is wholly or mainly maintaining or is contributing at any weekly rate to the maintenance of, or is or has been contributing at any weekly rate to the cost of providing for, B, the amount by which such benefit for any week has been so abated shall be deemed to be a contribution of that amount for that week made by A for the maintenance B.

Attribution of earnings

5.—(1) Subject to paragraph (4), for the purposes of section 80(3) and (4) of the Contributions and Benefits Act(3) (beneficiary’s dependent children) and regulation 10, the week to which a person’s earnings are to be attributed shall be determined in accordance with paragraphs (2) to (4).

(2) Earnings derived from employment as an employed earner or as a self-employed earner (determined in accordance with regulations 2 (calculation and estimation of amount of earnings), 3 (payments to be disregarded), 4 (deductions to be made) and 7 (calculation of earnings from boarders or lodgers of certain retirement pensioners and adult dependents of pensioners) of the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1978(4)) which are payable in respect of a period shall be attributed at a weekly amount to a period equal in length to the period

(3) Section 80(4) was amended by Article 8 of the Social Security Benefits Up-rating Order (Northern Ireland) 1993 (S.R. 1993 No. 150), the amounts being maintained in force by Article 8 of the Social Security Benefits Up-rating Order (Northern Ireland) 1994 (S.R. 1994 No. 74)

(4) S.R. 1978 No. 371; relevant amending regulations are S.R. 1979 No. 97, S.R. 1987 No. 201, S.R. 1989 Nos. 373 and 438, S.R. 1990 No. 398 and S.R. 1992 Nos. 96 and 298

in respect of which they are paid beginning with the date on which they are treated as paid under paragraph (3).

- (3) A payment of earnings to which paragraph (2) applies shall be treated as paid—
- (a) in the case of a payment which is due to be paid before the first benefit week pursuant to the claim, on the date on which it is due to be paid; and
 - (b) in any other case, on the first day of the benefit week in which it is due to be paid.

(4) This regulation does not apply in any case to which regulation 5 of the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1978 (calculation of earnings of certain retirement pensioners and adult dependents of pensioners) applies.

PART II

CHILD DEPENDANTS

Circumstances in which a person not entitled to child benefit is to be treated as if so entitled

6.—(1) For the purposes of section 80 of the Contribution and Benefits Act(5), in so far as they relate to incapacity benefited a person shall be treated as if he were entitled to child benefit in respect of a child for any period throughout which—

- (a) child benefit has been awarded to a parent of that child with whom that child is living and with whom that person is residing and either—
 - (i) the child is being wholly or mainly maintained by that person, or
 - (ii) that person is also a parent of the child; or
- (b) he, or his spouse with whom he is residing, would have been entitled to child benefit in respect of that child had the child been born at the end of the week immediately preceding the week in which the birth occurred.

(2) Where for any period a person who is in Northern Ireland could have been entitled to receive payment of an amount by way of an increase of incapacity benefit in respect of a child but for the fact that, in pursuance of any agreement with the government of a country outside the United Kingdom, he, or his spouse who is residing with him, is entitled in respect of the child in question to the family benefits of that country and is not entitled to child benefit, he shall for the purposes of entitlement to the said payment be treated as if he were entitled to child benefit for the period in question.

- (3) For the purposes of paragraph (1)—
- (a) “week” means a period of 7 days beginning with a Monday; and
 - (b) a child shall not be regarded as living with a person unless he can be so regarded for the purposes of section 139 of the Contributions and Benefits Act (meaning of “person responsible for child”).

Circumstances in which a person entitled to child benefit is to be treated as if not so entitled

7.—(1) For the purposes of section 80 of the Contributions and Benefits Act, in so far as they relate to incapacity, benefit, a person who is entitled to child benefit in respect of a child shall be treated as if he were not so entitled for—

- (a) any period throughout which—

(5) Section 80(2) is amended by Article 4(3) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 with effect from 6th April 1995

- (i) that person, not being a parent of the child, does not fall to be treated as responsible for the child under section 139 of that Act, and
- (ii) a parent of that child falls to be treated as responsible for the child under that section;
- (b) any period throughout which—
 - (i) that person, not being a parent of the child, falls to be treated as responsible for the child under section 139 of that Act, and
 - (ii) a parent of that child also falls to be treated as responsible for the child under that section; or
- (c) any day following the day on which that child died.

(2) Paragraph (1)(b) shall not apply in the case of a person who is wholly or mainly maintaining the child referred to in that sub-paragraph.

(3) For the purposes of section 80 of the Contributions and Benefits Act a person who is entitled to child benefit in respect of a child shall be treated as not so entitled for any period for which that benefit is not payable by virtue of any of the provisions of regulations 7 (circumstances in which a person who has ceased to receive full-time education is to continue to be treated as a child), 8, (exclusion from benefit of children aged sixteen but, under the age of nineteen who are receiving advanced education), 9 (child receiving training under the youth training programme) or 9A (child receiving income support) of the Child Benefit (General) Regulations (Northern Ireland) 1979⁽⁶⁾ or any provision contained in regulations made under section 140(1) of that Act (exclusions and priority) in so far as those regulations provide that child benefit is not to be payable by virtue of section 138(1)(b) of that Act (meaning of “child”) and regulations made under that paragraph.)

Contribution towards cost of providing for child

8.—(1) Where, apart from section 81(1) of the Contributions and Benefits Act, a person is entitled to receive, in respect of a of a particular child, an increase of incapacity benefit under any of the provisions of section 80 of that Act for any period, and neither of the conditions set out in paragraph (2) is satisfied, that person shall, for the purposes of section 81(2) of that Act, be deemed as respects that period to be making the contributions so required at a weekly rate not less than that required by that section if—

- (a) he gives an undertaking in writing to make such contributions; and
 - (b) on receiving the amount of the benefit or increase in question, he in fact makes such contributions.
- (2) The conditions referred to in paragraph (1) are—
- (a) that the person would be treated for the purposes of Part IX of the Contributions and Benefits Act as having the child living with him; or
 - (b) that contributions are being made to the cost of providing for the child at a rate equal to the amount of the relevant increase of benefit.

(3) Where, in respect of any period, a person fails to make contributions which he has undertaken to make in accordance with paragraph (1), the decision awarding the increase for that period in respect of the child shall be revised.

- (4) Except in a case to which applies either—

⁽⁶⁾ S.R. 1979 No. 5; relevant amending regulations are S.R. 1980 No. 261, S.R. 1982 No. 114, S.R. 1987 No. 130 and S.R. 1988 Nos. 132 and 273

- (a) regulation 15 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978⁽⁷⁾ (modification of the Act in relation to title to benefit for beneficiary's child dependents); or
- (b) any regulations made under Article 6(10) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994⁽⁸⁾ (power to provide for the transition to incapacity benefit) which provides, subject to the regulations, for regulation 18 of the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977⁽⁹⁾ (preservation of entitlement to benefit in payment before 4th April 1977 for a child dependent), to have effect,

section 81(2)(b) of the Contributions and Benefits Act shall not apply in a case where neither the beneficiary nor his spouse (if he has a spouse and she is residing with him) is in fact entitled to child benefit in respect of the child in question.

PART III

ADULT DEPENDANTS

Increase of incapacity benefit for adult dependents and persons having the care of children

9.—(1) Subject to regulation 14, a beneficiary shall be entitled to an increase of incapacity benefit under section 86A(1) of the Contributions and Benefits Act if—

- (a) he is residing with a spouse of his and either—
 - (i) the spouse is aged at least 60, or
 - (ii) the beneficiary is entitled to an increase of incapacity benefit under section 80 of that Act in respect of a child;
- (b) he has a spouse who is aged at least 60 and not residing with him but to whose maintenance he contributes at a weekly rate equal to or greater than the rate of the increase;
- (c) there is an adult who—
 - (i) is resident with him, and
 - (ii) cares for a child for whom the beneficiary is entitled to an increase under section 80 of that Act; or
- (d) subject to paragraph (3), there is an adult who—
 - (i) is not resident with him, and
 - (ii) cares for a child for whom the beneficiary is entitled to an increase under section 80 of that Act,

and in regulation 10 “dependent” means a person who satisfies any of the conditions set out in any of the sub-paragraphs of this paragraph.

(2) For the purposes of paragraph (1) a person shall be treated as entitled to an increase for a child under section 80 of the Contributions and Benefits Act if he would be so entitled if the day in question was a day on which he was entitled to either short-term incapacity benefit at the higher rate or to long-term incapacity benefit.

(3) A beneficiary shall not be entitled to an increase of incapacity benefit under paragraph (1) (d) unless the other person—

(7) S.R. 1978 No. 114; relevant amending regulations are S.R. 1983 No. 36, S.R. 1984 No. 317, S.R. 1986 No. 303 and S.R. 1994 Nos. 45 and 269

(8) S.I. 1994/1898 (N.I. 12)

(9) S.R. 1977 No. 74; relevant amending regulations are S.R. 1980 No. 216, S.R. 1983 Nos. 36 and 193, S.R. 1984 Nos. 373, 377 and 382, S.R. 1985 No. 229, S.R. 1987 No. 129, S.R. 1989 No. 373 and S.R. 1992 No. 521

- (a) is employed by the beneficiary in an employment in respect of which the weekly expenses incurred by the beneficiary are not less than the standard rate of increase and was so employed before the beneficiary became incapable of work, subject to the qualification that the condition of employment before that event shall not apply in a case where the necessity for the employment first arose thereafter; or
- (b) is a person to whose maintenance the beneficiary is contributing at a weekly rate not less than the standard rate of increase.

Earnings rules for increases for adult dependents

10.—(1) Subject to paragraphs (2) and (3), the increase in benefit to which a beneficiary is entitled under regulation 9 shall not be payable for the benefit week immediately following any benefit week in which the dependent has earnings which exceed the amount of the standard rate of increase.

(2) Where the beneficiary is entitled to long-term incapacity benefit or to short-term incapacity benefit at the higher rate under section 30B(4) of the Contributions and Benefits Act (10) (incapacity benefit: rate), and the dependant is residing with the beneficiary, the increase of benefit shall not be payable for the benefit week immediately following any benefit week in which the dependant has earnings which exceed the amount specified in paragraph 1 of Part I of Schedule 4 to that Act.

(3) In determining the earnings of a dependent for the purposes of this regulation no account shall be taken of any earnings of the dependent from employment by the beneficiary to care for a child such as is mentioned in regulation 9(1)(c).

(4) Where the dependent satisfies the conditions set out in regulation 9(1)(d) and is employed by the beneficiary to care for a child such as is mentioned in that sub-paragraph, the increase shall be payable irrespective of the dependant's earnings.

Apportionment of payments by way of occupational or personal pension made otherwise than weekly

11. For the purposes of section 89 of the Contributions and Benefits Act (earnings to include occupation or personal pensions for certain purposes), in so far as they relate to incapacity benefit, where payment by way of occupational or personal pension is for any period made otherwise than weekly, the amount of any such payment for any week in that period shall be determined—

- (a) where payment is made for a year, by dividing the total by 52;
- (b) where payment is made for three months, by dividing the total by 13;
- (c) where payment is made for a month, by multiplying the total by 12 and dividing the result by 52;
- (d) where payment is made for two or more months, otherwise than for a year or for three months, by dividing the total by the number of months, multiplying the result by 12 and dividing the result of that multiplication by 52; or
- (e) in any other case, by dividing the amount of the payment by the number of days in the period for which it is made and multiplying the result by 7.

Contribution to maintenance of adult dependent

12.—(1) Subject to paragraph (2), for the purposes of regulation 9—

- (a) a beneficiary shall not be deemed to satisfy the requirement contained in that regulation that he is contributing to the maintenance of his spouse or a person having the care of a child, as the case may be, at a weekly rate of not less than the standard rate of

(10) Section 30B was inserted by Article 4(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

increase unless when in employment, or not incapable of work, (except in a case where the dependency did not arise until later), he contributed to that spouse's or person's maintenance at a weekly rate of not less than the standard rate of increase;

- (b) in a case where an increase of benefit is, apart from the said requirement, payable at a weekly rate less than the standard rate of increase, a beneficiary shall, subject to subparagraph (a) above, be deemed to satisfy the said requirement if he is contributing to the maintenance of the spouse or the person having the care of a child at a weekly rate of not less than that of the increase.

(2) Where, within one month of having been entitled to an increase—

- (a) of unemployment benefit under section 82 of the Contributions and Benefits Act⁽¹¹⁾ (short-term benefit: increase for adult dependents) by virtue of having satisfied the requirement of either—

(i) subsection (1)(a)(ii) of that section, or

(ii) subsection (3)(b) of that section by reason of her contributing to the maintenance of her husband; or

- (b) of incapacity benefit under regulation 9 by virtue of having satisfied either the requirement in paragraph (1)(b) or the requirement in paragraph (3)(b) of that regulation,

a person becomes entitled to incapacity benefit which attracts a standard rate of increase higher than that to which he had been entitled, he shall be deemed to satisfy the condition in paragraph (1)(a) if he satisfies it in relation to the benefit to which he had been entitled; and in this paragraph “entitled” includes deemed to have been entitled.

(3) Until 13th May 1995 the reference in paragraph (2)(a) to unemployment benefit includes a reference to sickness benefit.

Increase of short-term incapacity benefit for persons over pensionable age

13.—(1) In relation to any increase of short-term incapacity benefit to which section 87 of the Contributions and Benefits Act (rate of increase where associated retirement pension is attributable to reduced contributions) applies the amount of such increase shall be determined in accordance with paragraphs (2) and (3).

(2) The amount of the increase shall be the relevant percentage of the amount specified in column (3) of paragraph 1A of Part IV: of Schedule 4 to the Contributions and Benefits Act⁽¹²⁾.

(3) In this regulation “relevant percentage” means the percentage specified in regulation 6(3B) of the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979⁽¹³⁾ (benefit at reduced rates for those who do not satisfy the contribution conditions in full).

Disqualification for receipt of increases in cases of imprisonment and absence abroad

14.—(1) Subject to paragraph (2), where an adult (other than the spouse of the beneficiary) in respect of whom a beneficiary is entitled to an increase of incapacity benefit under regulation 9(1)(c) or (d) is absent from Northern Ireland, or is undergoing imprisonment or detention in legal custody, the beneficiary shall not be entitled to that increase.

(2) Paragraph (1) shall not apply in the case of an adult who is absent from Northern Ireland and who is resident with the beneficiary in circumstances where the disqualification for receipt of

⁽¹¹⁾ Section 82 is amended by paragraph 19 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 with effect from 6th April 1995

⁽¹²⁾ Paragraph 1A is inserted by Article 4(2) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 with effect from 6th April 1995

⁽¹³⁾ [S.R. 1979 No. 243](#); relevant amending regulations are [S.R. 1990 No. 452](#)

incapacity benefit does not apply in the case of the beneficiary by virtue of regulation 2 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978.

PART IV

CONSEQUENTIAL AMENDMENTS

Amendment of the Social Security Benefit (Dependency) Regulations

15.—(1) The Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977 shall be amended in accordance with paragraphs (2) to (8).

(2) In regulation 1 (citation, commencement and interpretation) for paragraph (3) there shall be substituted the following paragraphs—

“(3) Regulations 2(2) and (3), 4 and 5(1) shall, with any necessary modifications, apply to invalid care allowance as they apply to retirement pension.

(3A) Nothing in these regulations applies for the purposes of incapacity benefit under section 30A of the Contributions and Benefits Act(14).”.

(3) In regulation 3 (allocation of contributions for spouse or children—

(a) in paragraph (1) the reference “47(1)(a),” shall be omitted; and

(b) in paragraph (5) for “, 45A(2)(b) and 47(1)(a)” there shall be substituted “and 45A(2)(b)”.

(4) In regulation 8(1)(a) (earnings rules for increases for adult dependents) the words “or invalidity pension” shall be omitted.

(5) In regulation 10 (increase of benefit for person having care of child—

(a) in paragraph (1) the words “or sickness” and “or an invalidity pension” shall be omitted; and

(b) in paragraph (3) the words “sickness benefit, or” shall be omitted.

(6) In regulation 11 (contribution to maintenance of adult dependant)—

(a) in paragraph (1)—

(i) the reference “, 47(1)(a)” shall be omitted, and

(ii) the words “, sickness benefit, an invalidity pension” in both places where they occur shall be omitted;

(b) in paragraph (2)—

(i) the words “or sickness benefit” shall be omitted, and

(ii) after “(but no other requirement in that sub-paragraph),” there shall be inserted “or of having been entitled to an increase of short-term incapacity benefit by virtue of having satisfied the requirements of regulation 9(1)(b) or (3)(b) of the Social Security (Incapacity Benefit — Increases for Dependants) Regulations (Northern Ireland) 1994,”;

(c) in paragraph (2A)—

(i) the words “or sickness benefit” shall be omitted, and

(ii) after “at a weekly rate not less than the standard rate of increase,” there shall be inserted “or of having been entitled to an increase of short-term incapacity benefit by virtue of having satisfied the requirements of regulation 9(1)(b) or (3)(b) of the Social

(14) Section 30A is inserted by Article 3(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 with effect from 13th April 1995

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Security (Incapacity Benefit — Increases for Dependants) Regulations (Northern Ireland) 1994.”; and

- (d) in paragraph (3) the words “or sickness benefit” shall be omitted.
- (7) In regulation 12(1) (prescribed circumstances for purposes of section 49 of the Act—
 - (a) for “regulations 8 and 11” there shall be substituted “the Social Security (Incapacity Benefit — Increases for Dependants) Regulations (Northern Ireland) 1994”; and
 - (b) for “invalidity pension” there shall be substituted “long-term incapacity benefit”.
- (8) In regulation 13 (increase of unemployment benefit, sickness benefit or invalidity pension for persons over pensionable age) for the words preceding “to which section 47A of the Act applies” there shall be substituted—

“Increase of unemployment benefit for persons over pensionable age

13.—(1) In relation to any increase of unemployment benefit”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland
on

14th December 1994.

C. P. Moore
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations set out the circumstances in which recipients of incapacity benefit are entitled to an increase of that benefit in respect of adult dependents and certain child dependents.

Part I contains general provisions—

- (a) regulation 1 sets out commencement and interpretation provisions;
- (b) regulation 2 provides for the circumstances in which a person is to be deemed to be wholly or mainly maintaining another person;
- (c) regulation 3 provides for the way in which maintenance payments are to be allocated between a spouse and children;
- (d) regulation 4 provides for treating the amount by which benefit is abated under section 72(3)(a) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) as being a contribution towards the maintenance of another person; and
- (e) regulation 5 provides for the period to which earnings are to be attributed.

Part II contains provisions relating to child dependants—

- (a) regulation 6 sets out the circumstances in which a person not entitled to child benefit is to be treated as if he were so entitled;
- (b) regulation 7 sets out the circumstances in which a person who is entitled to child benefit is to be treated as if he were not so entitled; and
- (c) regulation 8 provides for deeming, in certain circumstances, a person to be contributing to the cost of maintaining a child.

Part III contains provisions relating to adult dependants—

- (a) regulation 9 provides for the circumstances in which an increase of incapacity benefit is to be payable for an adult dependent;
- (b) regulation 10 sets out the rules about how much an adult dependent may earn if an increase of incapacity benefit is to be payable in respect of him;
- (c) regulation 11 deals with the apportionment of payments of occupational or personal pension (which are treated as earnings) where they are paid otherwise than weekly;
- (d) regulation 12 sets out the circumstances in which a person is to be deemed to be contributing to the maintenance of an adult dependent;
- (e) regulation 13 provides for an increase of short-term incapacity benefit for persons over pensionable age; and
- (f) regulation 14 provides for disqualification for receipt of increase of incapacity benefit in cases of imprisonment and absence abroad.

Part IV makes amendments to the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977 which are consequential on the abolition of sickness and invalidity benefit and the introduction of incapacity benefit (regulation 15).

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

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Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

These regulations are made under provisions of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) some of which are inserted or amended by the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I.1994/1898 (N.I. 12)) and brought into operation by virtue of the Social Security (Incapacity for Work) (1994 Order) (Commencement) Order (Northern Ireland) 1994 (S.R. 1994 No. 450 (C.15)).