

1988 No. 131

SOCIAL SECURITY

**The Family Credit (General) (Amendment) Regulations
(Northern Ireland) 1988**

Made 1st April 1988

Coming into operation 11th April 1988

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(5A) and (12)(k), 22(6)(a) and 23(8) and (9) of the Social Security (Northern Ireland) Order 1986(a) and of all other powers enabling it in that behalf, by this statutory rule which is made before the end of a period of 12 months from the commencement of the statutory provisions under which it is made, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Family Credit (General) (Amendment) Regulations (Northern Ireland) 1988 and shall come into operation on 11th April 1988.

(2) In these regulations “the principal regulations” means the Family Credit (General) Regulations (Northern Ireland) 1987(b).

Amendment of regulation 2 of the principal regulations

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

(a) after the definition of “employed earner” there shall be inserted the following definition—

“ “the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State for Social Services to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;”;

(b) after the definition of “policy of life insurance” there shall be inserted the following definition—

“ “premises” where it appears in Schedules 2 and 3 means a dwelling, including any garage, garden or out-buildings together with any agricultural land adjoining that dwelling and any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately;”.

(a) S.I. 1986/1888 (N.I. 18); Article 21(5A) was inserted by Article 5(a) of the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2)).

(b) S.R. 1987 No. 463

Amendment of regulation 9 of the principal regulations

3. In regulation 9 of the principal regulations (circumstances in which a person is to be treated as being no longer a member of the same household)—

(a) in paragraph (2)—

- (i) for “in-patient” where it first occurs there shall be substituted “patient” and, in sub-paragraph (a), for “an in-patient” there shall be substituted “a patient”,
- (ii) for the words “in a prison, young offenders centre or a training school” where they first occur there shall be substituted “detained in legal custody”; and where, in sub-paragraph (c), they occur for a second time there shall be substituted “detained in legal custody whilst”; and

(b) after paragraph (2) there shall be inserted the following paragraph—

“(3) In this regulation “patient” has the same meaning as in regulation 8(3)(a) (membership of the same household).”.

Substitution of regulation 12 of the principal regulations

4. For regulation 12 of the principal regulations (disregard of fractions) there shall be substituted the following regulation—

“Rounding of fractions

12. Where any calculation under this Part results in a fraction of a penny that fraction shall, if it would be to the claimant’s advantage, be treated as a penny, otherwise it shall be disregarded.”.

Amendment of regulation 19 of the principal regulations

5. In regulation 19(1) of the principal regulations (earnings of employed earners) after sub-paragraph (h) there shall be inserted the following sub-paragraph—

- “(i) any statutory sick pay under Part I of the Social Security and Housing Benefits Act 1982(a) or statutory maternity pay under Part V of the Social Security Act 1986(b) where the claimant has been in receipt of either for a continuous period of 13 weeks or more.”.

Amendment of regulation 20 of the principal regulations

6. In regulation 20(4) of the principal regulations (calculation of net earnings of employed earners) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

- “(b) an amount in respect of primary Class 1 contributions equivalent to an amount calculated by applying to those earnings the appropriate primary percentage applicable at the date of claim;”.

Amendment of regulation 23 of the principal regulations

7. In regulation 23(2) of the principal regulations (deduction of tax and contributions for self-employed earners) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

(a) 1982 c. 24

(b) 1986 c. 50

- “(a) the amount of Class 2 contributions payable under section 7(1) or, as the case may be, (4) of the Act(a) at the rate applicable at the date of claim except where a claimant’s chargeable income is less than the amount specified in section 7(5) of that Act(b) (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 calculated on a pro rata basis; and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 9(2) of that Act(c) (Class 4 contributions) 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 calculated on a pro rata basis.”.

Amendment of regulation 26 of the principal regulations

8. In regulation 26 of the principal regulations (notional income)—

- (a) in paragraph (3) after “payment of income” there shall be inserted “, other than a payment of income made under the Macfarlane Trust,”; and
- (b) in paragraph (6) for sub-paragraph (b) there shall be substituted the following sub-paragraph—
- “(b) an amount in respect of primary Class 1 contributions equivalent to an amount calculated by applying to those earnings the appropriate primary percentage applicable at the date of claim; and”.

Amendment of regulation 34 of the principal regulations

9. In regulation 34 of the principal regulations (notional capital)—

- (a) in paragraph (3) after “payment of capital” there shall be inserted “, other than a payment of capital made under the Macfarlane Trust,”; and
- (b) after paragraph (6) there shall be inserted the following paragraph—
- “(7) For the avoidance of doubt a claimant is to be treated as possessing capital under paragraph (1) only if the capital of which he has deprived himself is actual capital.”.

Amendment of regulation 35 of the principal regulations

10. In regulation 35(2) of the principal regulations (capital jointly held) after “Any premises” there shall be inserted “or land”.

(a) 1975 c. 15; section 7(1) was amended by Article 3(1) of the Social Security and Family Allowances (Northern Ireland) Order 1976 (S.I. 1976/427 (N.I. 9)), Article 11(1) of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)) and Article 3(a) of S.R. 1988 No. 122

(b) Section 7(5) was amended by Article 3(b) of S.R. 1988 No. 122

(c) Section 9(2) was amended by Article 5 of S.R. 1982 No. 413 and Article 5 of S.R. 1988 No. 122

Amendment of regulation 38 of the principal regulations

11. In regulation 38 of the principal regulations (calculation of grant income)—

(a) in paragraph (3) after “grant income” there shall be inserted “, except any amount intended for the maintenance of dependants under Part III of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1987(a) or intended for an older student under Part IV of that Schedule,”; and

(b) after paragraph (3) there shall be inserted the following paragraph—
 “(3A) Any amount intended for the maintenance of dependants or for an older student under the provisions referred to in paragraph (3) shall be apportioned equally over a period of 52 weeks commencing with the week in which the period of study begins.”.

Amendment of regulation 46 of the principal regulations

12. In regulation 46 of the principal regulations (determination of appropriate maximum family credit)—

(a) in paragraph (1) for “paragraphs (2) to (6)” there shall be substituted “paragraphs (2) to (7)”;

(b) after paragraph (6) there shall be inserted the following paragraph—
 “(7) For the purposes of this regulation the amount of any credit and the age of any child or young person shall be determined by reference to the credit specified in Schedule 4 and the age of the child or young person at the date on which the period under Article 21(6) of the Order(b) (period of award) begins.”.

Amendment of regulation 47 of the principal regulations

13. In regulation 47 of the principal regulations (applicable amount of family credit) at the beginning there shall be inserted “—(1)” and at the end there shall be inserted the following paragraph—

“(2) For the purposes of Article 21(5A) of the Order (date on which applicable amount is to be determined) the prescribed date is the date on which the period under Article 21(6) of the Order (period of award) begins.”.

Amendment of Schedule 2 to the principal regulations

14. In Schedule 2 to the principal regulations (sums to be disregarded in the calculation of income other than earnings)—

(a) for paragraph 11 there shall be substituted the following paragraph—

“11. In the case of a claimant participating in arrangements for training made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(c) or attending a course at an employment rehabilitation centre established under that section—

(a) any travelling expenses reimbursed to the claimant;

(a) S.R. 1987 No. 420

(b) Article 21(6) is amended by Article 5(b) of the Social Security (Northern Ireland) Order 1988

(c) 1950 c. 29 (N.I.); section 1(1) was substituted by Article 24 of the Industrial Relations (Northern Ireland) Order 1987 (S.I. 1987/936 (N.I. 9))

- (b) any lodging allowance under section 3(3) of that Act;
- (c) any training premium under that Act,

but this paragraph, except insofar as it relates to a payment under sub-paragraph (a), (b) or (c), does not apply to any part of any allowance under section 3(3) of that Act.”;

(b) in paragraph 16—

- (i) in sub-paragraph (1) for “sub-paragraph (2)” there shall be substituted “sub-paragraphs (2) and (3)”,
- (ii) for sub-paragraph (2) there shall be substituted the following sub-paragraphs—

“(2) Income derived from capital disregarded under paragraph 2 or 4 of Schedule 3 but, subject to sub-paragraph (3), only to the extent of any mortgage repayments and payment of rates made in respect of the premises or land in the period during which that income accrued.

(3) Where income is derived from conacre or agistment letting any expenses reasonably incurred therein including the repayment of interest and capital on any loan used for the purchase of land under the Northern Ireland Land Act 1925(a).”;

(c) after paragraph 31 there shall be inserted the following paragraphs—

“32. Any statutory sick pay under Part I of the Social Security and Housing Benefits Act 1982 or statutory maternity pay under Part V of the Social Security Act 1986 where the claimant has not been in receipt of either for a continuous period of 13 weeks or more.

33. Any payment in respect of expenses to which regulation 19(2) (earnings of employed earners) applies.

34. Any resettlement benefit which is paid to the claimant by virtue of regulation 3 of the Social Security (Hospital In-patients) (Amendment No. 2) Regulations (Northern Ireland) 1987(b) (transitional provisions).

35. Any payment made under the Macfarlane Trust.”.

Amendment of Schedule 3 to the principal regulations

15. In Schedule 3 to the principal regulations (capital to be disregarded)—

(a) for paragraphs 1 to 4 there shall be substituted the following paragraphs—

“1. The dwelling including any garage, garden and outbuildings normally occupied by the claimant as his home, together with any agricultural land adjoining that dwelling and any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately but, notwithstanding regulation 10 (calculation of income and capital of members of claimant’s family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

2. Any premises or land acquired for occupation by the claimant as his home which he intends to occupy within 26 weeks of the date of

(a) 1925 c. 34

(b) S.R. 1987 No. 391

acquisition or such longer period as is reasonable in the circumstances to enable the claimant to obtain possession and commence occupation of the premises or land.

3. Any sum directly attributable to the proceeds of sale of any premises which formerly comprised the dwelling occupied as the home and which is to be used for the purchase of other premises or land intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the claimant to complete the purchase.

4. Any premises occupied in whole or in part as the home by a partner or relative (that is to say any close relative, grandparent, grandchild, uncle, aunt, nephew or niece) of any member of the family, where that person is aged 60 or over or has been incapacitated for a continuous period of at least 13 weeks immediately preceding the date of the claim.”; and

(b) after paragraph 22 there shall be inserted the following paragraphs—
“23. Any payment made under the Macfarlane Trust and any sum derived from such a payment.

24. The value of the right to receive an occupational pension.

25. The value of the right to receive any rent.”.

Sealed with the Official Seal of the Department of Health and Social Services on 1st April 1988.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

Articles 21(12)(k), 22(6)(a) and 23(8) and (9) of the Social Security (Northern Ireland) Order 1986 are some of the enabling provisions under which these regulations are made and are brought into operation on 11th April 1988 by virtue of the Social Security (1986 Order) (Commencement No. 7) Order (Northern Ireland) 1987 (S.R. 1987 No. 449 (C. 14)). Article 21(5A) of the Social Security (Northern Ireland) Order 1986, another enabling provision, is brought into operation, also on 11th April 1988, by virtue of the Social Security (1988 Order) (Commencement No. 1) Order (Northern Ireland) 1988 (S.R. 1988 No. 126 (C. 6)).

These regulations amend the Family Credit (General) Regulations (Northern Ireland) 1987.

They amend Part IV to provide, in the calculation of income and capital, for the disregard of charitable payments made to haemophiliacs under the Macfarlane Trust and certain other payments (regulations 2(a), 8(a), 9(a), 14(a) and (c) and 15(b)); for statutory sick pay and maternity pay under Great Britain legislation to be treated as earnings (regulation 5); for calculating social security contributions payable on earnings at the rates applying at the date of claim (regulations 6, 7 and 8(b)); for apportioning student grants intended for maintenance of older students (regulation 11); for a disregard from income of expenses incurred in letting land (regulation 14(b)); and make certain other minor amendments to that Part (regulations 2(b), 4, 9(b), 10 and 15(a)).

They also make provision for the maximum family credit to be determined by reference to the credits specified and the age of a child or young person at the date of the award (regulation 12); prescribe the date at the beginning of the award as the date on which the applicable amount is to be determined (regulation 13); and define "patient" for the purposes of determining whether a person is to be treated as a member of the household (regulation 3).

The 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 Article 62(5) of the Social Security (Northern Ireland) Order 1986, from reference to the Social Security Advisory Committee and have not been so referred.