

1988 No. 193

SOCIAL SECURITY

**The Income Support (General) (Amendment No. 2)
Regulations (Northern Ireland) 1988**

Made 27th May 1988

Coming into operation 30th May 1988

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 23(1) and (9)(b) of the Social Security (Northern Ireland) Order 1986(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Income Support (General) (Amendment No. 2) Regulations (Northern Ireland) 1988 and shall come into operation on 30th May 1988.

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

Amendment of regulation 17 of the principal regulations

2. In regulation 17 of the principal regulations (applicable amounts) at the end there shall be added the following—

“(f) any amounts determined in accordance with paragraphs (2) to (7).

(2) Where—

- (a) a claimant has throughout the period beginning on and including 11th April 1988 and ending immediately before the coming into operation of paragraphs 25 to 28 of Schedule 10 (capital to be disregarded) failed to satisfy the capital condition in Article 23(6) of the Order (no entitlement to benefit if capital exceeds prescribed amount);
- (b) as a consequence he is not entitled to any transitional addition, special transitional addition or personal expenses addition under Part III of the Transitional Regulations; and
- (c) had those paragraphs been in operation on 11th April 1988 he would have satisfied that condition and been entitled to any such addition,

(a) S.I. 1986/1888 (N.I. 18); Article 81(1) provides for section 155(1) to (3A) of the Social Security (Northern Ireland) Act 1975 (c. 15) (extent of powers) to apply to the regulation-making powers conferred by this Order; the said section 155(3A) was inserted by Article 63(1)

(b) S.R. 1987 No. 459; the relevant amending regulations are S.R. 1988 No. 146

the amount applicable under this paragraph shall, subject to paragraph (3), be equal to the amount of any transitional addition, special transitional addition and personal expenses addition to which he would be entitled under Part III of the Transitional Regulations had he been entitled to any such addition in the week commencing 11th April 1988.

(3) For the purposes of paragraph (2), in determining a claimant's total benefit income in his second benefit week for the purpose of calculating the amount of any transitional addition to which he would have been entitled, no account shall be taken of any payment referred to in regulation 9(1)(j) of the Transitional Regulations (total benefit income) which is made in respect of that week to compensate for the loss of entitlement to income support.

(4) Subject to paragraph (6), where—

(a) the claimant or any member of his family was temporarily absent from his home in the claimant's first or second benefit week (or both), because he was—

(i) a patient,

(ii) outside Northern Ireland for the purpose of receiving treatment for any disease or bodily or mental disablement or for the purpose of accompanying a child or young person who was outside Northern Ireland for the purpose of receiving such treatment,

(iii) in a home for persons in need or nursing home or in accommodation provided under either of the provisions referred to in sub-paragraph (a) or (b) of the definition of "residential accommodation" in regulation 21(3) (special cases),

(iv) in the care of the Department under a relevant enactment, or

(v) staying with a person who was contributing to his maintenance; and

(b) as a result—

(i) in the claimant's first benefit week his requirements for the purpose of calculating his entitlement to supplementary benefit were increased or reduced or he was not entitled to that benefit, or

(ii) in the claimant's second benefit week his applicable amount was increased or reduced or he was not entitled to income support; and

(c) the period during which his requirements were, or his applicable amount was, increased or reduced or he was not entitled to supplementary benefit or income support or any one or more of those circumstances existed, did not exceed 8 weeks,

the amount applicable under this paragraph shall be equal to the amount determined under paragraph (5).

(5) The amount for the purposes of paragraph (4) shall be an amount equal to the difference between—

- (a) the amount that his total benefit income in his first benefit week would have been had he been entitled in respect of that week to supplementary benefit calculated on the basis that he or any member of his family had not been absent from the home; and, if less,
- (b) the amount of his total benefit income in the first complete week after the period of temporary absence ends; but for the purpose of calculating his total benefit income in that week—
- (i) no account shall be taken of any payment referred to in regulation 9(1)(j) of the Transitional Regulations which is made in respect of that week to compensate for the loss (in whole or in part) of entitlement to income support, and
 - (ii) if the period of temporary absence ends after the coming into operation of paragraph (4) the amount of income support to be taken into account shall, notwithstanding regulation 9(6) of the Transitional Regulations, be calculated as if that paragraph were not in operation.

(6) The amount under paragraph (4) shall cease to be applicable to a claimant if he ceases to be entitled to income support for a period exceeding 8 weeks.

(7) In this regulation—

- “first benefit week” and “second benefit week” have the meanings given to those expressions in regulation 2(1) of the Transitional Regulations and shall also include the week which would have been the claimant’s “first benefit week” or, as the case may be, “second benefit week” had he been entitled to supplementary benefit or, as the case may be, income support in that week;
- “total benefit income” has, subject to paragraphs (3) and (5)(b), the same meaning as in regulation 9 of the Transitional Regulations;
- “the Transitional Regulations” means the Income Support (Transitional) Regulations (Northern Ireland) 1987(a).”.

Amendment of Schedule 10 to the principal regulations

3. In Schedule 10 to the principal regulations (capital to be disregarded)—

- (a) in paragraph 4(b) “where the claimant is not to be treated as occupying a dwelling as his home” shall be omitted;
 - (b) after paragraph 24 there shall be added the following paragraphs—
- “25. Where a claimant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling.

26. Any premises or land where the claimant is taking reasonable steps to dispose of those premises or that land, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises or that land.

27. Any premises where the claimant has commenced legal proceedings to obtain possession of those premises in order to occupy them as his home, for a period of 26 weeks from the date on which he commenced such proceedings, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

28. Any premises which the claimant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the claimant first takes steps to effect those repairs or alterations, or such longer period as is reasonable in the circumstances to enable those repairs or alterations to be carried out and the claimant to commence occupation of the premises.”.

Sealed with the Official Seal of the Department of Health and Social Services on 27th May 1988.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

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

They provide for an increase in the applicable amount of persons who, had the amendments made by regulation 3(b) been in operation on the introduction of the income support scheme, would have been entitled to a transitional addition and persons who had a reduced or no transitional addition owing to their temporary absence from home in the week before or after the introduction of that scheme (regulation 2).

They also provide, in the calculation of capital, for the disregard, for a period of 26 weeks, of the claimant's interest in his former home where he has left that home following his estrangement or divorce from his former partner; for the disregard, for such period or longer, of premises or land where he is taking steps to dispose of his interest therein, or of any premises where he is seeking possession of them in order to occupy them as his home or essential repairs or alterations are needed before such occupation (regulation 3(b)); and for the disregard of any premises occupied by a former partner from whom the claimant is neither estranged nor divorced (regulation 3(a)).

These 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 virtue of 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.