

1989 No. 395**SOCIAL SECURITY****The Income Support (General) (Amendment No. 4) Regulations
(Northern Ireland) 1989**

Made 6th October 1989

Coming into operation 9th October 1989

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(1)(a) and 23(1), (8) and (9) 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. 4) Regulations (Northern Ireland) 1989 and shall come into operation, in relation to a particular claimant, as follows—

(a) regulations 1, 2 to 8, 10, 11 and 12(b), on 9th October 1989;

(b) regulations 9 and 12(a), immediately after regulations 9 and 10 of the Income Support (General) (Amendment) Regulations (Northern Ireland) 1989(b) come into operation.

(2) In paragraph (1) the expression “claimant” has the same meaning as in the principal regulations and in these regulations “the principal regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(c).

Amendment of regulation 3 of the principal regulations

2. In regulation 3(2)(c) of the principal regulations (definition of non-dependant) at the end there shall be added “and either is a co-owner of that dwelling with the claimant or his partner (whether or not there are other co-owners) or is liable with the claimant or his partner to make payments in respect of his occupation of the dwelling”.

Insertion of regulation 3A in the principal regulations

3. After regulation 3 of the principal regulations (definition of non-dependant) there shall be inserted the following regulation—

(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. 1989 No. 139

(c) S.R. 1987 No. 459; the relevant amending rules are S.R. 1988 Nos. 146, 193, 318 and 431 and S.R. 1989 Nos. 18, 139 and 249

“Permitted period

3A.—(1) For the purposes of regulation 17(6), paragraph 7(10) of Schedule 3(a), paragraph 7(6) of Schedule 3A, paragraph 6(3) of Schedule 3B and paragraphs 4 and 6 of Schedule 8 (applicable amounts, housing costs, protected sums and sums to be disregarded in the calculation of earnings), where a claimant has ceased to be entitled to income support—

(a) because he or his partner becomes engaged in remunerative work the permitted period, subject to paragraph (2), shall be 12 weeks; or

(b) for any other reason, the permitted period shall be 8 weeks.

(2) Subject to paragraph (3), where the claimant or his partner has ceased to be engaged in the remunerative work referred to in paragraph (1)(a) the permitted period shall be 8 weeks if—

(a) the claimant’s weekly applicable amount is reduced under regulation 22 (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification) because of the cessation of that work;

(b) the claimant or his partner has ceased to be engaged in that work within 6 weeks of beginning it; or

(c) at any time during the period of 26 weeks immediately preceding the beginning of that work, the person who has ceased to be engaged in it—

(i) was engaged in remunerative work,

(ii) was in relevant education, or

(iii) was a student.

(3) Paragraph (2)(b) or (c) shall not apply if, by virtue of section 20A(2) of the principal Act(b) (exemptions from disqualification for unemployment benefit), the person who has ceased to be engaged in remunerative work is exempted from disqualification for receiving unemployment benefit.”

Amendment of regulation 17 of the principal regulations

4. In regulation 17 of the principal regulations (applicable amounts)—

(a) in paragraph (6) for “8 weeks” there shall be substituted “the permitted period determined in accordance with regulation 3A (permitted period)”;

(b) after paragraph (6) there shall be inserted the following paragraph—

“(6A) For the purposes of paragraph (6), where a claimant has ceased to be entitled to income support because he or his partner is participating in arrangements for training or rehabilitation provided under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland)

(a) Paragraph 7(10) is added by regulation 7 of these regulations

(b) 1975 c. 15; section 20A was inserted by Article 14(4) of the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13))

1945(a) or arranged under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(b) or attending a course at an employment rehabilitation unit established under those sections, he shall be treated as if he had been entitled to income support for the period during which he or his partner is participating in such arrangements or attending such a course.”.

Amendment of regulation 19 of the principal regulations

5. In regulation 19 of the principal regulations (persons in homes for persons in need and nursing homes)—

(a) in paragraph (1A) after “paragraph (1)(b)” there shall be inserted “and Schedule 4 (applicable amounts of persons in homes for persons in need and nursing homes)”;

(b) after paragraph (3) there shall be added the following paragraph—
“(4) Notwithstanding paragraphs (1) to (3), where—

(a) a person has been, registered under Article 35 of, and Schedule 5 to, the 1972 Order(c) in respect of premises which have been carried on as a home for persons in need or, as the case may be, registered under Part I of the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971(d) in respect of premises which have been carried on as a nursing home, and that person has ceased to carry on such a home; and

(b) an application for registration under that Order or, as the case may be, that Act has been made by another person and that application has not been determined or abandoned,

the applicable amount of a person resident in those premises shall be determined under Schedule 4 as if the most recent registration under Article 35 of, and Schedule 5 to, the 1972 Order or, as the case may be, Part I of the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971, in respect of those premises continued until the day on which the application is determined or abandoned.”.

Amendment of Schedule 2 to the principal regulations

6. In Schedule 2 to the principal regulations (applicable amounts)—

(a) in paragraph 1(1)—

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- (a) 1945 c. 6 (N.I.); sections 2 and 3 were amended by section 1 of the Disabled Persons (Employment) Act (Northern Ireland) 1960 (c. 4 (N.I.)) and Schedule 18 to the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))
- (b) 1950 c. 29 (N.I.); section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))
- (c) S.I. 1972/1265 (N.I. 14)
- (d) 1971 c. 32 (N.I.); Part I was amended by Schedules 16 and 18 to the Health and Personal Social Services (Northern Ireland) Order 1972, Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1978 (S.I. 1978/1907 (N.I. 26)), Schedules 7 and 8 to the Nurses, Midwives and Health Visitors Act 1979 (c. 36), Articles 3 and 4 of the Nursing Homes and Nursing Agencies (Northern Ireland) Order 1985 (S.I. 1985/1775 (N.I. 19)) and Part II of Schedule 5 to the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4))

- (i) in column (1), in head (a), for “head (b) or (c)” there shall be substituted “head (b)”;
- (ii) for heads (b) and (c) there shall be substituted the following head—
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| <p>“(b) less than 18 who falls within any of the circumstances specified in Part II of Schedule 1A or who, had he been a registered person, would fall within any of those circumstances, and who—</p> <p>(i) is eligible for income support under regulation 13A, or</p> <p>(ii) is the subject of a direction under Article 21(4A) of the Order;”;</p> | <p>(b) £27·40;</p> |
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- (b) in paragraph 1(2)—
- (i) in column (1), in head (a), for “head (b) or (c)” there shall be substituted “head (b)”;
- (ii) for heads (b) and (c) there shall be substituted the following head—
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| <p>“(b) less than 18 who falls within any of the circumstances specified in Part II of Schedule 1A or who, had he been a registered person, would fall within any of those circumstances, and who—</p> <p>(i) is eligible for income support under regulation 13A, or</p> <p>(ii) is the subject of a direction under Article 21(4A) of the Order;”;</p> | <p>(b) £27·40;</p> |
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- (c) in column (1), in paragraph 1(3)(aa) for the words from “is a person” to “that member” there shall be substituted “falls within any of the circumstances specified in Part II of Schedule 1A or who, had he been a registered person, would fall within any of those circumstances, and that member”;
- (d) in paragraph 6(1) for the words from “either the higher pensioner premium” to the end there shall be substituted “any other premium which may apply under this Schedule.”;
- (e) in paragraphs 7(b) and 12(5) after “Employment and Training Act (Northern Ireland) 1950” there shall be added in each of those provisions “or for any period during which he is in receipt of a training allowance”;
- (f) in paragraph 13—

(a) Article 21(4A) was inserted by Article 6(2) of the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2))

- (i) in sub-paragraph (2)(a)(iii) “no one is in receipt of” shall be omitted; and after “principal Act” there shall be inserted “is not in payment to anyone”,
- (ii) in sub-paragraph (2)(b) for “there is someone in receipt of an invalid care allowance” there shall be substituted “an invalid care allowance is in payment to someone”; and, for “there is no one in receipt of such an allowance” there shall be substituted “such an allowance is not in payment to anyone”.

Amendment of Schedule 3 to the principal regulations

7. In Schedule 3 to the principal regulations (housing costs)—

(a) in paragraph 7—

- (i) in sub-paragraph (1) for “sub-paragraphs (2) to (9)” there shall be substituted “sub-paragraphs (2) to (11)”,
- (ii) in sub-paragraph (9) at the beginning there shall be inserted “Subject to sub-paragraphs (10) and (11),”,
- (iii) after sub-paragraph (9) there shall be added the following sub-paragraphs—

“(10) Where—

(a) a claimant has ceased to be in receipt of income support because he or his partner becomes engaged in remunerative work; and

(b) immediately before ceasing to be so in receipt an amount under sub-paragraph (1)(b)(i) was applicable to him,

sub-paragraph (9)(a)(ii) shall apply to him as if for “any period of 8 weeks or less” there were substituted “any period not exceeding the permitted period determined in accordance with regulation 3A (permitted period)”.

(11) For the purposes of sub-paragraph (1)(b)(i), where—

(a) a claimant has ceased to be entitled to income support because he or his partner is participating in arrangements for training or rehabilitation provided under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or arranged under section 1(1) of the Employment and Training Act (Northern Ireland) 1950 or attending a course at an employment rehabilitation unit established under those sections; and

(b) immediately before so ceasing an amount under that sub-paragraph was applicable to him,

he shall be treated as if he had been in receipt of income support for the period during which he or his partner was participating in such arrangements or attending such a course.”;

(b) in paragraph 10—

- (i) in sub-paragraph (5) for “under this paragraph” there shall be substituted “under sub-paragraph (3)”,

- (ii) in sub-paragraph (7) for “In this paragraph” there shall be substituted “In sub-paragraph (5)”.

Amendment of Schedule 3A to the principal regulations

8. In Schedule 3A to the principal regulations (protected sum) in paragraph 7(6) for “a period of not more than 8 weeks” there shall be substituted “a period not exceeding the permitted period determined in accordance with regulation 3A (permitted period)”.

Amendment of Schedule 3B to the principal regulations

9. In Schedule 3B to the principal regulations (protected sum)—

(a) in paragraph 1(1)—

(i) in the definition of “protected total” in paragraph (a) “in a case to which paragraph 6(4) applies,” shall be omitted; and for “in that week” there shall be substituted “for a period not exceeding 14 weeks which includes that week”,

(ii) in the definition of “relevant provisions” after paragraph (d) there shall be inserted the following paragraph—

“(dd) paragraph 13 of Schedule 7 (persons in residential accommodation);”;

(b) in paragraph 2(6) after “that week shall” there shall be inserted “, subject to paragraphs 3 to 6,”;

(c) in paragraph 3—

(i) in sub-paragraph (3) after head (b) there shall be added the following—

“or

(c) his applicable amount in the first week fell or would have fallen, but for any temporary absence, to be determined under regulation 20 (persons in board and lodging accommodation and hostels) but would not have fallen to be so determined in the March benefit week had he been in the same accommodation in that week and had his stay in that accommodation been other than temporary.”,

(ii) after sub-paragraph (3) there shall be added the following sub-paragraph—

“(4) For the purposes of sub-paragraph (3), where—

(a) a claimant’s applicable amount in respect of the March benefit week has been determined under paragraph 13(1) of Schedule 7 and it is subsequently determined on review that it fell to be determined under regulation 20, he shall, notwithstanding that review, be treated as if his applicable amount fell to be determined under that paragraph;

(b) a claimant has been temporarily absent from his accommodation in the March benefit week and immediately before the period of temporary absence his applicable amount was determined under paragraph 13(1) of Schedule

- 7, he shall be treated as if his applicable amount would have fallen to be determined under that paragraph during the period of temporary absence notwithstanding that it is subsequently determined on review that immediately before the period of temporary absence it fell to be determined under regulation 20;
- (c) a claimant has entered his accommodation after the March benefit week, he shall be treated as if his applicable amount, had he been in that accommodation in the March benefit week, would not have fallen to be determined under regulation 20 in that week if the applicable amounts of other claimants in that accommodation in that week were determined otherwise than under that regulation notwithstanding that it is subsequently determined on review that they fell to be determined under regulation 20.”;
- (d) in paragraph 6(3) for “a period of not more than 8 weeks” there shall be substituted “a period not exceeding the permitted period determined in accordance with regulation 3A (permitted period)”.

Amendment of Schedule 4 to the principal regulations

10. In paragraph 5(1) of Schedule 4 to the principal regulations (applicable amounts of persons in homes for persons in need and nursing homes) for head (b) there shall be substituted the following head—

- “(b) in the case of a claimant who is a member of a family the aggregate of the following amounts—
- (i) in respect of the claimant, the appropriate amount in respect of him specified in or determined in accordance with paragraphs 6 to 10,
 - (ii) in respect of each member of his family aged under 11 who lives in the home, 1½ times the amount specified in paragraph 2(a) of Schedule 2,
 - (iii) in respect of each member of his family aged not less than 11 who lives in the home, an amount which would be the appropriate amount specified in or determined in accordance with paragraphs 6 to 10 if the other member were the claimant.”.

Amendment of Schedule 7 to the principal regulations

11. In Schedule 7 to the principal regulations (applicable amounts in special cases)—

- (a) in column 1, in paragraph 9, for the words from “where one of them is living in the home” to the end there shall be substituted “where—
- (a) one member of the couple is—
 - (i) not a patient but is resident in a nursing home,
 - (ii) resident in a home for persons in need,

- (iii) resident in premises used for the rehabilitation of alcoholics or drug addicts,
 - (iv) participating in arrangements for training or rehabilitation provided under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or arranged under section 1(1) of the Employment and Training Act (Northern Ireland) 1950 or attending a course at an employment rehabilitation unit established under those sections, where the course requires him to live away from the dwelling occupied as the home, or
 - (v) in a probation or bail accommodation approved for the purpose by the Probation Board for Northern Ireland; and
- (b) the other member of the couple is—
- (i) living in the dwelling occupied as the home,
 - (ii) a patient,
 - (iii) in residential accommodation, or
 - (iv) resident in a home for persons in need or a nursing home.”;
- (b) after paragraph 10C there shall be inserted the following paragraph—

“Lone parents who are in homes for persons in need or nursing homes temporarily .

10D. A claimant who is a lone parent who is in a home for persons in need or nursing home temporarily.

10D. Any amount applicable to the claimant under paragraph 1(1)(a) and (c) of Schedule 4, determined as if he were a single claimant, plus—

- (a) in respect of each child who is a member of his family, the appropriate amount in respect of him prescribed in paragraph 2(a) or (b) of Schedule 2 or under this Schedule as appropriate; and
- (b) any amount which would be applicable to the claimant, if he were not temporarily living away from the dwelling occupied as the home, under regulation 17(1)(c),

(f) or (g), or (d) in so far as it relates to the lone parent premium under paragraph 8 of Schedule 2.”

Amendment of Schedule 8 to the principal regulations

12. In Schedule 8 to the principal regulations (sums to be disregarded in the calculation of earnings)—

(a) in paragraph 4, for sub-paragraph (7) there shall be substituted the following sub-paragraphs—

“(7) For the purposes of this paragraph—

(a) except where head (b) or (c) applies, no account shall be taken of any period not exceeding 8 consecutive weeks occurring—

(i) on or after the date on which the claimant or, if he is a member of a couple, he or his partner attained the age of 60 during which either was or both were not engaged in part-time employment or the claimant was not entitled to income support, or

(ii) immediately after the date on which the claimant or his partner ceased to participate in arrangements for training or rehabilitation provided under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or arranged under section 1(1) of the Employment and Training Act (Northern Ireland) 1950 or to attend a course at an employment rehabilitation unit established under those sections;

(b) in a case where the claimant has ceased to be entitled to income support because he, or if he is a member of a couple, he or his partner becomes engaged in remunerative work, no account shall be taken of any period, during which he was not entitled to income support, not exceeding the permitted period determined in accordance with regulation 3A (permitted period) occurring on or after the date on which the claimant or, as the case may be, his partner attained the age of 60;

(c) no account shall be taken of any period occurring on or after the date on which the claimant or, if he is a member of a couple, he or his partner attained the age of 60 during which the claimant was not entitled to income support because he or his partner was participating in arrangements for training or rehabilitation provided under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or arranged under section 1(1) of the Employment and Training Act (Northern Ireland) 1950 or attending a course at an employment rehabilitation unit established under those sections.”;

(b) in paragraph 6—

- (i) in sub-paragraph (1)(b) for “receiving full-time education” there shall be substituted “in relevant education or a student”,
- (ii) for sub-paragraph (2) there shall be substituted the following sub-paragraphs—

“(2) For the purposes of this paragraph in determining whether one of a couple has been in receipt of income support for a continuous period of 2 years—

- (a) no account shall be taken of any period not exceeding 8 weeks during which the claimant was not a member of a couple;
- (b) subject to sub-paragraphs (2A) and (2C), no account shall be taken of any period not exceeding 8 weeks during which the claimant was not in receipt of income support;
- (c) consecutive periods during which either member was in receipt of income support in respect of a couple shall be treated as periods during which one of that couple had been so in receipt.

(2A) Where—

- (a) a claimant has ceased to be in receipt of income support because he or the other member of the couple becomes engaged in remunerative work; and
- (b) immediately before ceasing to be so in receipt this paragraph applied to him,

sub-paragraph (2)(b) shall apply to him as if for “not exceeding 8 weeks” there were substituted “not exceeding the permitted period determined in accordance with regulation 3A (permitted period)”.

(2B) In a case where sub-paragraph (2A) applies, sub-paragraph (1) shall apply as if for “a period exceeding 8 consecutive weeks” there were substituted “a period exceeding the permitted period determined in accordance with regulation (3A)”.

(2C) For the purposes of this paragraph, where—

- (a) a claimant has ceased to be in receipt of income support because he or the other member of the couple is participating in arrangements for training or rehabilitation provided under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or arranged under section 1(1) of the Employment and Training Act (Northern Ireland) 1950 or attending a course at an employment rehabilitation unit established under those sections; and
- (b) immediately before ceasing to be so in receipt this paragraph applied to him,

he shall be treated as if he had been in receipt of income support in respect of a couple for the period during which he or his partner is participating in such arrangements or attending such a course and no account shall be taken of any period during that time in which the

other member is engaged in remunerative work, in relevant education or a student.”,

(iii) in sub-paragraph (3) for “sub-paragraph (2)” there shall be substituted “sub-paragraphs (2) to (2C)”.

Sealed with the Official Seal of the Department of Health and Social Services on 6th October 1989.

(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 in the following respects—

- (a) they protect a claimant who has ceased to be entitled to income support because he or his partner is engaged in employment from loss of any transitional protection, amount of eligible interest met at the higher rate and certain earnings disregards, where he becomes re-entitled to income support within the permitted period; and in such cases provide for the permitted period to be 12 weeks, or the lesser period of 8 weeks if the claimant is subject to a reduction in his applicable amount, ceases the employment before the end of 6 weeks, or during the preceding 26 weeks has been in work, in relevant education or a student (regulations 3, 4, 7, 8, 9(d) and 12);
- (b) they exempt from the definition of “non-dependant” a joint occupier who is a co-owner or liable to make payments in respect of the accommodation (regulation 2); make provision, where a new owner applies for registration in respect of a home for persons in need or nursing home and that application has not yet been determined, for the applicable amounts of residents in the home to be determined as if the last registration continued in force (regulation 5); provide for certain persons under the age of 18 who are living away from their parents in certain specified circumstances and who are eligible for income support to be entitled to the increased personal allowance and make certain other minor amendments to the conditions for premiums (regulation 6);
- (c) they include in the applicable amounts of claimants in homes for persons in need and nursing homes an amount only in respect of members of the family living in the home (regulation 10); extend the modifications in the case of couples who are temporarily separated to couples where neither member is living in the dwelling occupied as the home and make provisions for lone parents who are temporarily in a home for persons in need or nursing home (regulation 11); provide for a protected sum not to be payable to a person who in the March benefit week (beginning 20th March 1989) was not, or had he been in the accommodation in that week, would not have been, assessed at the hostel rate even if on review that rate is determined to be applicable and make other miscellaneous amendments to the provisions for determining the protected sum (regulation 9(a), (b) and (c)).

The regulations correspond 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 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30), are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.