

## 1990 No. 347

## SOCIAL SECURITY

**The Family Credit (General) (Amendment No. 2) Regulations  
(Northern Ireland) 1990**

*Made . . . . . 25th September 1990*

*Coming into operation . . . . . 2nd October 1990*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 23(8) and (9)(a) and (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 Family Credit (General) (Amendment No. 2) Regulations (Northern Ireland) 1990 and shall come into operation on 2nd October 1990.

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

*Amendment of regulation 34 of the principal regulations*

2. In regulation 34(1) of the principal regulations (notional capital) for “except where” to the end there shall be substituted “except—

- (a) where that capital is derived from a payment made in consequence of any personal injury and is placed on trust for the benefit of the claimant; or
- (b) to the extent that the capital which he is treated as possessing is reduced in accordance with regulation 34A (diminishing notional capital rule).”.

*Insertion of regulation 34A in the principal regulations*

3. After regulation 34 of the principal regulations (notional capital) there shall be inserted the following regulation—

*“Diminishing notional capital rule*

**34A.**—(1) Where a claimant is treated as possessing capital under regulation 34(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a benefit week which is subsequent to—

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(a) S.I. 1986/1888 (N.I. 18)

(b) S.R. 1987 No. 463; relevant amending regulations are S.R. 1988 No. 423

- (i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied, or
- (ii) a week which follows that relevant week and which satisfies those conditions,  
shall be reduced by the amount determined under paragraph (3);
- (b) in the case of a benefit week in respect of which paragraph (1)(a) does not apply but where—
  - (i) that week is a week subsequent to the relevant week, and
  - (ii) that relevant week is a week in which the condition in paragraph (4) is satisfied,  
shall be reduced by the amount determined under paragraph (4).
- (2) This paragraph applies to a benefit week where the claimant satisfies the conditions that—
  - (a) he is entitled to family credit; and
  - (b) but for regulation 34(1), he would have been entitled to an additional amount of family credit in that benefit week.
- (3) In a case to which paragraph (2) applies, the amount of the reduction for the purposes of paragraph (1)(a) shall be equal to the aggregate of—
  - (a) the additional amount of family credit to which the claimant would have been entitled; and
  - (b) the additional amount, if any, of housing benefit to which, but for regulation 43(1) of the Housing Benefit (General) Regulations (Northern Ireland) 1987(a) (notional capital), the claimant would have been entitled in respect of the benefit week in which the date of the last claim for family credit falls.
- (4) Subject to paragraph (5), for the purposes of paragraph (1)(b), the condition is that the claimant would have been entitled to family credit in the relevant week, but for regulation 34(1), and in such a case the amount of the reduction shall be equal to the aggregate of—
  - (a) the amount of family credit to which the claimant would have been entitled in the relevant week but for regulation 34(1); and
  - (b) the additional amount, if any, of housing benefit to which, but for regulation 43(1) of the Housing Benefit (General) Regulations (Northern Ireland) 1987, the claimant would have been entitled in respect of the benefit week in which the first day of the relevant week falls.
- (5) The amount determined under paragraph (4) shall be re-determined under that paragraph if the claimant makes a further claim for family credit and the conditions in paragraph (6) are satisfied, and in such a case—

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(a) S.R. 1987 No. 461; relevant amending regulations are S.R. 1990 No. 345

- (a) sub-paragraphs (a) and (b) of paragraph (4) shall apply as if for “relevant week” there were substituted “relevant subsequent week”; and
  - (b) subject to paragraph (7), the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.
- (6) The conditions are that—
- (a) a further claim is made 22 or more weeks after—
    - (i) the first day of the relevant week,
    - (ii) in a case where there has been at least one re-determination in accordance with paragraph (5), the first day of the relevant subsequent week which last occurred,whichever last occurred; and
  - (b) the claimant would have been entitled to family credit but for regulation 34(1).

(7) The amount as re-determined pursuant to paragraph (5) shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.

- (8) For the purposes of this regulation—
- (a) “benefit week” has the meaning prescribed in regulations 16 (date of entitlement under an award for the purpose of determining the day from which benefit is to be payable and effective date of change of rate) and 27 (family credit) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(a) except where it appears in paragraphs (3)(b) and (4)(b) where it has the meaning prescribed in regulation 2(1) of the Housing Benefit (General) Regulations (Northern Ireland) 1987 (interpretation);
  - (b) “relevant week” means the benefit week in which the capital in question of which the claimant has deprived himself within the meaning of regulation 34(1)—
    - (i) was for the first time taken into account for the purpose of determining his entitlement to family credit, or
    - (ii) was taken into account on a subsequent occasion for that purpose other than in respect of either a benefit week to which paragraph (2) applies or a further claim to which paragraph (5) applies,

and, where more than one benefit week is identified by reference to heads (i) and (ii) of this sub-paragraph, the later or latest such benefit week;

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(a) S.R. 1987 No. 465; relevant amending regulations are S.R. 1988 No. 141

- (c) "relevant subsequent week" means the benefit week in which any award of family credit in respect of the further claim referred to in paragraph (6)(a) would, but for regulation 34(1), have commenced, but it shall not be earlier than the twenty-seventh week after the week in which the existing amount took effect."

*Amendment of Schedule 2 to the principal regulations*

4. In Schedule 2 to the principal regulations (sums to be disregarded in the calculation of income other than earnings) after paragraph 44(a) there shall be added the following paragraphs—

"45.—(1) Any payment or repayment made under regulation 3 (entitlement to full remission and payment), regulation 5 (persons entitled to remission in part or payment in part) or regulation 8 (repayment) of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989(b).

(2) Any payment or repayment made by the Department which is analogous to a payment or repayment mentioned in sub-paragraph (1).

46. Any payment made under regulation 8 (failure to receive milk tokens), regulation 9 (inability to purchase dried milk at a reduced price), regulation 10 (inability to obtain free vitamins) or regulation 12 (absence of beneficiary for less than a week) of the Welfare Foods Regulations (Northern Ireland) 1988(c).

47. Any payment made under a scheme established by the Northern Ireland Office to assist relatives and other persons to visit persons in custody."

*Amendment of Schedule 3 to the principal regulations*

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

(a) in paragraph 6 at the beginning there shall be inserted "—(1)" and at the end there shall be added the following sub-paragraph—

"(2) The assets of any business owned in whole or in part by the claimant where—

(a) he has ceased to be engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; and

(b) he intends to become re-engaged as a self-employed earner in that business as soon as he recovers or is able to be re-engaged in that business,

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(a) Added by regulation 14(f) of S.R. 1990 No. 138

(b) S.R. 1989 No. 348, as modified by S.R. 1990 No. 164

(c) S.R. 1988 No. 137; relevant amending regulations are S.R. 1990 No. 92

for a period of 26 weeks from the date on which the claimant last ceased to be engaged in that business, or, if it is unreasonable to expect him to become re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so re-engaged.”;

(b) for paragraph 13 there shall be substituted the following paragraph—

“13. Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant, the value of the trust fund and the value of the right to receive any payment under that trust.”;

(c) after paragraph 39(a) there shall be added the following paragraphs—

“40.—(1) Any payment or repayment made under regulation 3 (entitlement to full remission and payment), regulation 5 (persons entitled to remission in part or payment in part) or regulation 8 (repayment) of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989, but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Department which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

41. Any payment made under regulation 8 (failure to receive milk tokens), regulation 9 (inability to purchase dried milk at a reduced price), regulation 10 (inability to obtain free vitamins) or regulation 12 (absence of beneficiary for less than a week) of the Welfare Foods Regulations (Northern Ireland) 1988, but only for a period of 52 weeks from the date of receipt of the payment.

42. Any payment made under a scheme established by the Northern Ireland Office to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of receipt of the payment.

43. Any arrears of special war widows payment which is disregarded under paragraph 44 of Schedule 2 (sums to be disregarded in the calculation of income other than earnings), but only for a period of 52 weeks from the date of receipt of the arrears.”.

### *Revocation*

6. Regulation 11(a) of the Family Credit (General) (Amendment No. 4) Regulations (Northern Ireland) 1988(b) is hereby revoked.

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(a) Added by regulation 15(b) of S.R. 1990 No. 138  
(b) S.R. 1988 No. 423

Sealed with the Official Seal of the Department of Health and Social Services on 25th September 1990.

(L.S.)

A. N. Burns

Assistant Secretary

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### EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations further amend the Family Credit (General) Regulations (Northern Ireland) 1987 in the following respects—

- (a) they provide for the reduction of notional capital (regulations 2 and 3);
- (b) they provide for the disregard of certain income; they disregard payments of travelling expenses and certain other payments made under the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)), payments in place of the supply of milk, dried milk or vitamins and payments in connection with prison visits (regulation 4);
- (c) they provide for the disregard of certain capital; they extend the provisions under which assets of a business may be disregarded, remove the 2 year time limit on the disregard of funds held on trust and which arise from payments made as a result of personal injury and they disregard payments of travelling expenses and certain other payments made under the Health and Personal Social Services (Northern Ireland) Order 1972, payments in place of the supply of milk, dried milk or vitamins, payments in connection with prison visits and arrears of certain war widows payments (regulation 5).

They also contain a consequential revocation (regulation 6).

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.