

1991 No. 338

SOCIAL SECURITY

**The Income Support (General) (Amendment No. 3)
Regulations (Northern Ireland) 1991**

Made 30th July 1991

Coming into operation—

*regulations 1, 2, 8 to 10, 12
and 13(e)* 5th August 1991

regulations 13(a) to (c), 14 and 15 1st October 1991

*regulations 4, 6, 7, 11, 13(d), 16
to 19, and 20 to 22 only insofar
as they relate to regulations
4 and 11(b)* 7th October 1991

*regulations 3 and 5, and 20
to 22 only insofar as they
relate to regulation 3* 7th April 1992

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(3)(a) and (d)(i) and (12)(c) and (d)(i) and 23(1), (8) 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. 3) Regulations (Northern Ireland) 1991 and shall come into operation, in relation to a particular claimant, as follows—

- (a) regulations 1, 2, 8 to 10, 12 and 13(e) at the beginning of the first benefit week to commence for that claimant on or after 5th August 1991;
- (b) regulations 13(a) to (c), 14 and 15 at the beginning of the first benefit week to commence for that claimant on or after 1st October 1991;
- (c) regulations 4, 6, 7, 11, 13(d), 16 to 19, and 20 to 22 only insofar as they relate to regulations 4 and 11(b), at the beginning of the first benefit week to commence for that claimant on or after 7th October 1991;

(a) S.I. 1986/1888 (N.I. 18); Article 21(3)(a) was amended by Article 6(1) of the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2)); Article 21(3)(d)(i) was amended by and Article 21(12)(d) was substituted by Article 15(1) and (2) respectively of the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)); 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)

(d) regulations 3 and 5, and 20 to 22 only insofar as they relate to regulation 3, at the beginning of the first benefit week to commence for that claimant on or after 7th April 1992.

(2) In paragraph (1) the expressions “benefit week” and “claimant” have the same meaning as in the principal regulations and in these regulations “the principal regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(a).

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation) after the definition of “invalid carriage or other vehicle” there shall be inserted the following definition—

“ “last day of the course” has the meaning prescribed in regulation 61 for the purposes of the definition of “period of study”.”.

Amendment of regulation 5 of the principal regulations

3. In regulation 5(1) of the principal regulations (persons treated as engaged in remunerative work) for “24 hours” there shall be substituted “16 hours”.

Amendment of regulation 6 of the principal regulations

4. In regulation 6 of the principal regulations (persons not treated as engaged in remunerative work)—

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

“(a) he is mentally or physically disabled, and by reason of that disability—

(i) his earnings are reduced to 75 per cent. or less of what a person without that disability and working the same number of hours would reasonably be expected to earn in that employment or in comparable employment in the area, or

(ii) his number of hours of work are 75 per cent. or less of what a person without that disability would reasonably be expected to undertake in that employment or in comparable employment in the area;”;

(b) after paragraph (f) there shall be added the following paragraph—

“or

(g) he is in employment and lives in, or is temporarily absent from, a home for persons in need, a nursing home or residential accommodation and his, or his partner’s, applicable amount falls to be calculated in accordance with Part I of Schedule 4 (applicable amounts of persons in homes for persons in need and nursing homes) or, as the case may be, paragraphs 9, 10 to 10D, 13, 14 or 16 of Schedule 7 (applicable amounts in special cases).”.

(a) S.R. 1987 No. 459; the relevant amending rules are S.R. 1988 Nos. 146, 274, 318 and 431, S.R. 1989 Nos. 139, 249, 365 and 395, S.R. 1990 Nos. 131, 213, 297, 346 and 395 and S.R. 1991 Nos. 46 and 77

Amendment of regulation 7 of the principal regulations

5. In regulation 7(1)(c) of the principal regulations (meaning of employment) for “24 hours” there shall be substituted “16 hours”.

Amendment of regulation 13 of the principal regulations

6. In regulation 13 of the principal regulations (circumstances in which persons in relevant education are to be entitled to income support)—

- (a) in paragraph (2) for “a young person” there shall be substituted “a person aged 16 or over but under 19 (hereinafter referred to as an eligible person)”;
- (b) in paragraph (3)(a)—
 - (i) for “a young person’s parents” there shall be substituted “an eligible person’s parents”;
 - (ii) in heads (i) and (ii) for “young” there shall be substituted “eligible” wherever it occurs in each of those heads.

Amendment of regulation 28 of the principal regulations

7. For regulation 28(2) of the principal regulations (calculation of income) there shall be substituted the following paragraph—

“(2) For the purposes of paragraph (1) “income” includes capital treated as income under regulation 41 (capital treated as income) and income which a claimant is treated as possessing under regulation 42 (notional income).”.

Amendment of regulation 61 of the principal regulations

8. In regulation 61 of the principal regulations (interpretation)—

- (a) after the definition of “grant income” there shall be inserted the following definition—
 - “ “last day of the course” means the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;”;
- (b) in the definition of “period of study”—
 - (i) in paragraph (a) for “to the end” there shall be substituted “and ending with the last day of the course”;
 - (ii) in paragraph (b) after “any subsequent year of the course,” there shall be added “other than the final year of the course,”;
 - (iii) after paragraph (b) there shall be added the following paragraph—
 - “(c) in the final year of a course of study of more than one year, the period beginning with that year’s start and ending with the last day of the course;”;
- (c) in the definition of “student”, in paragraph (a) for “the end of the course” there shall be substituted “the last day of the course”.

Amendment of regulation 62 of the principal regulations

9. In regulation 62(2)(g) of the principal regulations (calculation of grant income) for “£246” there shall be substituted “£257”.

Amendment of regulation 66A of the principal regulations

10. In regulation 66A(2)(b) of the principal regulations (treatment of student loans) for “the date on which the course ends” there shall be substituted “the last day of the course”.

Amendment of Schedule 1 to the principal regulations

11. In Schedule 1 to the principal regulations (persons not required to be available for employment)—

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

“Persons caring for another person

4.—(1) A person (the carer)—

(a) who is regularly and substantially engaged in caring for another person if—

(i) the person being cared for is in receipt of attendance allowance under section 35 of the principal Act(a), or

(ii) the person being cared for has claimed attendance allowance under that section but only for the period up to the date of determination of that claim, or the period of 26 weeks from the date of that claim, whichever date is the earlier; or

(b) who is engaged in caring for another person and who is in receipt of an invalid care allowance under section 37 of the principal Act(b).

(2) If sub-paragraph (1) ceases to apply to the carer, he shall not be required to be available for employment for a period of 8 weeks from the date upon which that sub-paragraph ceased to apply to him.

4A. A person who, had he previously made a claim for income support, would not have been required to be available for employment by reason of paragraph 4(1) for a period of 8 weeks from the date upon which that paragraph would have ceased to apply to him.”;

(b) for paragraph 6 there shall be substituted the following paragraphs—

“Disabled workers

6. A person to whom regulation 6(a) (persons not treated as engaged in remunerative work) applies.

Persons in employment living in homes for persons in need, nursing homes or residential accommodation

6A. A person to whom regulation 6(g) applies.”;

(c) in paragraph 17 “for any period exceeding 2 days” shall be omitted.

(a) 1975 c. 15; section 35 was amended by Article 3 of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)), paragraph 8 of Schedule 1 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)), Article 3(1) of the Social Security (Northern Ireland) Order 1988, paragraph 5 of Schedule 8 to the Social Security (Northern Ireland) Order 1989 and Article 3(1) and (2) of the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15))

(b) Section 37(3) was amended by Article 38(1) of, and Schedule 10 to, the Social Security (Northern Ireland) Order 1986

Amendment of Schedule 1A to the principal regulations

12. In Schedule 1A to the principal regulations (circumstances in which a person aged 16 or 17 is eligible for income support) in paragraph 1, after the entry relating to paragraph 4 there shall be inserted—

“paragraph 7 (disabled students)
paragraph 7A
paragraph 7B”.

Amendment of Schedule 2 to the principal regulations

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

(a) in column (2), in paragraph 1—

(i) in sub-paragraphs (1)(a) and (2)(a) for “£23·65” there shall be substituted “£23·90”,

(ii) in sub-paragraphs (1)(b) to (d) and (2)(b) and (c) for “£31·15” there shall be substituted “£31·40”;

(b) for the Table in paragraph 2 there shall be substituted the Table in the Schedule to these regulations;

(c) in paragraph 3 for “£7·95” there shall be substituted “£8·70”;

(d) in paragraph 14ZA—

(i) in sub-paragraph (1) at the beginning there shall be inserted “Subject to sub-paragraphs (3) and (4),”;

(ii) after sub-paragraph (2) there shall be added the following sub-paragraphs—

“(3) Where a carer premium is awarded but the person in respect of whom it has been awarded either ceases to be in receipt of, or ceases to be treated as being in receipt of, invalid care allowance, the condition for the award of the premium shall be treated as satisfied for a period of 8 weeks from the date on which that person ceased to be in receipt of, or ceased to be treated as being in receipt of, invalid care allowance.

(4) Where a person who has been receiving, or who has been treated as receiving invalid care allowance ceases to be in receipt of, or ceases to be treated as being in receipt of, that allowance and makes a claim for income support, the condition for the award of the carer premium shall be treated as satisfied for a period of 8 weeks from the date that person was last in receipt of, or was last treated as being in receipt of, invalid care allowance.”;

(e) in paragraph 14A for “under paragraphs 12 to 14” there shall be substituted “under paragraphs 12 to 14ZA”.

Amendment of Schedule 3A to the principal regulations

14. In Schedule 3A to the principal regulations (protected sum) in paragraph 5—

(a) in sub-paragraph (1) for “to (4)” there shall be substituted “to (5)”;

(b) after sub-paragraph (4) there shall be added the following sub-paragraph—

“(5) Where by virtue of the coming into operation of regulation 13(a), (b) or (c) of the Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1991(a) a claimant’s applicable amount increases in his benefit week beginning on a day during the period of 7 days commencing on 1st October 1991, no account shall be taken of that increase.”.

Amendment of Schedule 3B to the principal regulations

15. In Schedule 3B to the principal regulations (protected sum) in paragraph 4—

- (a) in sub-paragraph (1) for “and (3)” there shall be substituted “to (4)”;
- (b) after sub-paragraph (3) there shall be added the following sub-paragraph—

“(4) Where by virtue of the coming into operation of regulation 13(a), (b) or (c) of the Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1991(a) a claimant’s applicable amount increases in his benefit week beginning on a day during the period of 7 days commencing on 1st October 1991, no account shall be taken of that increase.”.

Amendment of Schedule 4 to the principal regulations

16. In Schedule 4 to the principal regulations (applicable amounts of persons in homes for persons in need and nursing homes) after paragraph 16 there shall be added the following paragraph—

“17. A person who is living in a home for persons in need within the meaning of paragraph (c) of the definition of “homes for persons in need” in regulation 19(2) and who is not in receipt of personal care by reason of age and infirmity, past or present mental disorder, past or present dependence on alcohol or drugs, mental handicap or physical disability.”.

Amendment of Schedule 7 to the principal regulations

17. In Schedule 7 to the principal regulations (applicable amounts in special cases) in column (1)—

- (a) in paragraph 11A—
 - (i) at the beginning there shall be inserted “(1)”,
 - (ii) for “circumstances specified in regulation 4(3)” there shall be substituted “the circumstances specified in sub-paragraph (2)”,
 - (iii) at the end there shall be added the following sub-paragraph—
 - “(2) For the purposes of sub-paragraph (1), the specified circumstances are—
 - (a) in respect of a claimant, those in regulation 4(3);
 - (b) in respect of a claimant’s partner, as if regulation 4(3) applied to that partner.”;

(a) See regulation 13(a), (b) and (c) of these regulations

(b) in paragraph 12A—

- (i) at the beginning there shall be inserted “(1)”,
- (ii) for “circumstances specified in regulation 4(3)” there shall be substituted “the circumstances specified in sub-paragraph (2)”,
- (iii) at the end there shall be added the following sub-paragraph—
 - “(2) For the purposes of sub-paragraph (1), the specified circumstances are—
 - (a) in respect of a claimant, those in regulation 4(3);
 - (b) in respect of a claimant’s partner or partners, as the case may be, as if regulation 4(3) applied to that partner or those partners.”.

Amendment of Schedule 9 to the principal regulations

18. In Schedule 9 to the principal regulations (sums to be disregarded in the calculation of income other than earnings) in paragraph 16 for sub-paragraph (b) there shall be substituted the following sub-paragraph—

- “(b) a pension paid by the Government of a country outside Great Britain which is either—
- (i) analogous to a war disablement pension, or
- (ii) analogous to a war widow’s pension;”.

Amendment of Schedule 10 to the principal regulations

19. In Schedule 10 to the principal regulations (capital to be disregarded) in paragraph 23 after “occupational” there shall be inserted “or personal”.

Saving provision

20.—(1) Where this regulation applies to a person, regulation 5 of, or, as the case may be, regulation 6(a) of, and paragraph 6 of Schedule 1 to, the principal regulations shall continue to apply to him until the occurrence of one of the events specified in regulation 21 of these regulations as if the amendments made by regulation 3 or, as the case may be, regulations 4(a) and 11(b) of these regulations, had not been made.

- (2) This regulation applies to a person—
- (a) who satisfied the relevant qualifying condition in the week immediately preceding the date on which regulation 3 or, as the case may be, regulations 4(a) and 11(b) of these regulations came into operation; and
- (b) who in that week was, or whose partner was, entitled to income support.
- (3) This regulation applies to a person—
- (a) who satisfied the relevant qualifying condition in at least one of the 8 weeks immediately preceding the date on which regulation 3 or, as the case may be, regulations 4(a) and 11(b) of these regulations came into operation, but who did not satisfy that condition in the week immediately preceding that date;

- (b) who in the week in which he satisfied that condition was, or whose partner was, entitled to income support; and
 - (c) who in a week commencing not more than 8 weeks after the date on which he last satisfied the relevant qualifying condition, again satisfies that condition and in that week he, or his partner, is entitled to income support.
- (4) This regulation applies to a person—
- (a) who, or whose partner, ceased to be entitled to income support because he, or his partner, became engaged in remunerative work for a period not exceeding the permitted period determined in accordance with regulation 22 of these regulations and that period had commenced but had not ended before the coming into operation of regulation 3 or regulations 4(a) and 11(b) of these regulations, as the case may be;
 - (b) who satisfied the relevant qualifying condition in the week immediately before that period commenced; and
 - (c) who in the week which commences immediately after the date on which that period ends, again satisfies the relevant qualifying condition and in that week he, or his partner, is entitled to income support.
- (5) This regulation applies to a person—
- (a) who, or whose partner, was entitled to income support immediately before he or his partner participated in provision or arrangements for training under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945(a) or section 1(1) of the Employment and Training Act (Northern Ireland) 1950(b) or attended a course at an employment rehabilitation unit established under any of those sections and that training or course had commenced but had not ended before the coming into operation of regulation 3 or regulations 4(a) and 11(b) of these regulations, as the case may be;
 - (b) who satisfied the relevant qualifying condition in the week immediately before the commencement of the period during which he or his partner participated in that training or attended that course; and
 - (c) who in a week commencing not more than 8 weeks after the date on which that period ends, again satisfies the relevant qualifying condition and in that week he, or his partner, is entitled to income support.
- (6) For the purposes of determining whether—
- (a) regulation 5 of the principal regulations continues to apply to a person as if the amendment made thereto by regulation 3 of these regulations had not been made, the relevant qualifying condition is that he is engaged in work, or where his hours of work fluctuate, engaged on average, for at least 16 hours but less than 24 hours a week; or

(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(1) was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

- (b) regulation 6(a) of, and paragraph 6 of Schedule 1 to, the principal regulations continue to apply to a person as if the amendments made thereto by regulations 4(a) and 11(b) of these regulations had not been made, the relevant qualifying condition is that he is engaged in work, he is mentally or physically disabled and his earning capacity is, by reason of that disability, reduced to 75 per cent. or less of what he would, but for that disability, be reasonably expected to earn.

(7) In this regulation and in regulations 21 and 22 of these regulations except where the context otherwise requires, the expressions used have the same meaning as in the principal regulations.

Circumstances in which regulation 20 ceases to apply

21.—(1) Subject to paragraph (2), regulation 20 shall cease to apply to a person if—

- (a) he ceases to satisfy the relevant qualifying condition; or
 - (b) he, or his partner, ceases to be entitled to income support, for a period in excess of 8 consecutive weeks.
- (2) For the purposes of paragraph (1)—
- (a) except where sub-paragraph (b) applies, in a case where the person, or his partner, ceases to be entitled to income support because he, or his partner, becomes engaged in remunerative work, no account shall be taken of any period, during which he, or his partner, was not entitled to income support, not exceeding the permitted period determined in accordance with regulation 22;
 - (b) no account shall be taken of—
 - (i) any period during which the person, or his partner, was participating in provision or arrangements for training under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or section 1(1) of the Employment and Training Act (Northern Ireland) 1950 or attending a course at an employment rehabilitation unit established under any of those sections, and
 - (ii) a further period not exceeding 8 consecutive weeks commencing immediately after the end of the period referred to in head (i).

Permitted period

22.—(1) For the purposes of regulations 20 and 21, where a person 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 that person, 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 person's weekly applicable amount is reduced under regulation 22 of the principal regulations (reductions in applicable amounts in

certain cases of actual or notional unemployment benefit disqualification) because of the cessation of that work;

- (b) the person, 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 so engaged—
 - (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(a) (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.

Sealed with the Official Seal of the Department of Health and Social Services on 30th July 1991.

(L.S.)

C. Davie

Assistant Secretary

(a) Section 20A was inserted by Article 14(4) of the Social Security (Northern Ireland) Order 1989

Column (1)	Column (2)
<i>Child or Young Person</i>	<i>Amount</i>
Person aged—	
(a) less than 11;	(a) £13·60;
(b) not less than 11 but less than 16;	(b) £20·00;
(c) not less than 16 but less than 18;	(c) £23·90;
(d) not less than 18.	(d) £31·40.

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 define the last day of a student's course; make certain consequential amendments in this respect; increase to £257 the amount to be disregarded from a student's grant income in respect of books and equipment and clarify the prescribed circumstances in which certain disabled students aged 16 and 17 are entitled to income support (regulations 2, 8 to 10 and 12);
- (b) they reduce from 24 to 16 the number of hours constituting employment, and below which a person in employment is not treated as being in remunerative work for the purposes of entitlement to income support; amend the circumstances in which physically or mentally disabled persons, and certain persons in homes for persons in need, nursing homes, or residential accommodation, although employed, are treated as not being in remunerative work nor required to be available for employment and make saving provision in respect of certain persons affected by these changes (regulations 3 to 5, 11(b) and 20 to 22);
- (c) they provide a new definition in respect of those persons aged 16 and over but under 19 who are entitled to income support while in certain types of education; make minor technical amendments in respect of capital and income which a person is treated as having and restrict the applicable amount of those in certain homes for persons in need who are not receiving personal care (regulations 6, 7 and 16);
- (d) they clarify the prescribed circumstances in which those caring for others where certain allowances are in payment are not required to be available for employment; provide for a further exemption from that requirement where the circumstances have ceased to apply and remove the 2 day minimum period for court attendance in respect of exemption from that requirement (regulation 11(a) and (c));

- (e) they further increase, by £0·25 per week, the personal allowance for certain persons under 18, or under 25; they increase the family premium by £0·75 per week and provide that where a claimant who benefits from any of these increases has a protected sum in respect of board and lodging or hostel costs, that sum is not eroded by the increase in the personal allowance (regulations 13(a) to (c), 14 and 15);
- (f) they extend the period to which entitlement to a carer premium applies and provide that, in determining whether that premium is payable, concessionary payment of invalid care allowance is to be treated as if it were a payment of that benefit (regulation 13(d) and (e));
- (g) they clarify the prescribed manner in which certain applicable amounts are to be calculated where a claimant or his partner is temporarily absent abroad in certain circumstances (regulation 17);
- (h) they provide that £10 of certain pensions paid by foreign governments is to be disregarded in calculating income and that the value of the right to receive a personal pension is to be disregarded in calculating capital (regulations 18 and 19).

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.