

1987 No. 464

SOCIAL SECURITY**The Family Credit (Transitional) Regulations
(Northern Ireland) 1987**

Made 21st December 1987

Coming into operation 1st January 1988

ARRANGEMENT OF REGULATIONS

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The Department of Health and Social Services, in exercise of the powers conferred on it by Article 84(1) of the Social Security (Northern Ireland) Order 1986(a) and of all other powers enabling it in that behalf, by this statutory rule which contains only provisions consequential on Articles 21 to 23 of that Order and regulations made under those Articles in their application to family credit and is made before the end of a period of 12 months from the commencement of those Articles, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Family Credit (Transitional) Regulations (Northern Ireland) 1987 and shall come into operation on 1st January 1988.

*Interpretation***2.** In these regulations—

- “adjudication officer” means an officer appointed in accordance with section 97(1) of the Social Security (Northern Ireland) Act 1975(a);
- “appropriate office” means an office of the Department;
- “child” has the same meaning as in Part III of the Order(b);
- “employed earner” means a person who is gainfully employed in Northern Ireland or the Republic of Ireland either under a contract of service, or in an office (including elective office) with emoluments chargeable to income tax under Schedule E or, as the case may be, chargeable under the legislation of the Republic of Ireland which is analogous to income tax under Schedule E;
- “family” has the same meaning as in Part III of the Order(b);
- “family income supplement” means benefit under the Family Income Supplements Act (Northern Ireland) 1971(c);
- “married or unmarried couple” has the same meaning as in Part III of the Order(b);
- “the Order” means the Social Security (Northern Ireland) Order 1986;
- “renewal claim” means a claim for family income supplement which is so described in regulation 3(2) of the Family Income Supplements (General) Regulations (Northern Ireland) 1980(d);
- “self-employed earner” means a person who is gainfully employed in Northern Ireland or the Republic of Ireland otherwise than in employed earner’s employment (whether or not he is also employed in such employment);
- “young person” means a person aged sixteen or over but under nineteen who is receiving full-time education within Article 4(1)(b) of the Child Benefit (Northern Ireland) Order 1975(e).

Claims for family credit treated as made on 11th April 1988

3.—(1) A written claim for family credit which is delivered or sent to an appropriate office on or after 1st March 1988 and received on or before 11th April 1988 shall be treated as made on 11th April 1988.

(2) Where family income supplement is payable to a person under an award for a period which includes 5th April 1988 and does not exceed 51 weeks it shall not be a condition of entitlement to family credit for a period beginning 11th April 1988 that the person makes a claim for such benefit and a claim, in such a case, for family credit shall be treated as made on 11th April 1988.

(3) Where a claim for family income supplement is made on or after 1st March 1988 but on or before 5th April 1988, but no award of that benefit is

(a) 1975 c. 15; section 97(1) to (2E) was substituted by paragraph 1 of Schedule 1 to the Social Security Adjudications (Northern Ireland) Order 1983 (S.I. 1983/1524 (N.I. 17))

(b) See Article 21(11) for definitions

(c) 1971 c. 8 (N.I.)

(d) S.R. 1980 No. 375; the relevant amending regulations are S.R. 1984 No. 267

(e) S.I. 1975/1504 (N.I. 16); as amended by Article 71 of the Social Security (Northern Ireland) Order 1986

made, that claim shall, if the Department in its discretion so determines, be treated as including a claim for family credit made on 11th April 1988.

(4) Where, after 5th April 1988, a claim is made for family income supplement which is neither a renewal claim nor a claim in respect of a period before 11th April 1988 it shall be treated as a claim for family credit which shall be treated as made on 11th April 1988 if received at an appropriate office on or before that date but otherwise on the date on which it is received at such an office.

(5) In a case to which paragraph (2), (3) or (4) applies, where the claim for family income supplement was made by a married or unmarried couple, the claim for family credit shall be treated as made by the woman except that the claim shall be treated as made by the man if the Department is satisfied, in that case, that it would be reasonable so to treat it.

(6) A claim which is treated as made on 11th April 1988 by virtue of the provisions of this regulation may nevertheless be determined at any earlier date on which the conditions for treating it as made on 11th April 1988 are satisfied; and any such claim shall be determined in accordance with the Order and regulations made under that Order as if those provisions were in force.

Claims for family credit treated as including renewal claims for family income supplement

4. Where a claim for family credit is treated as made on 11th April 1988 by virtue of regulation 3(1) (claim received before 11th April 1988) and a renewal claim could properly have been made on the date when the claim for family credit was received at an appropriate office, such a renewal claim shall be treated as so made.

Claims for family income supplement to be determined first

5. Where, before 11th April 1988, a person makes a claim for family credit and also claims family income supplement in respect of a period before 11th April 1988, the determination of the claim for family credit shall be postponed or, if it has already been determined, shall be of no effect until, and may be reviewed when, the claim for family income supplement has been determined.

Determination of circumstances where family credit replaces, or arises out of a claim for, family income supplement

6.—(1) Subject to paragraphs (2) to (4), in a case to which regulation 3(2) or (3) (family credit treated as claimed on 11th April 1988 where family income supplement awarded or claimed) applies, the provisions of Article 21(5) of the Order (conditions of entitlement to family credit) shall be modified to the extent that entitlement to family credit shall be determined upon the assumption that the circumstances of the family (but not the ages of its members except where a young person attains the age of nineteen on or before 11th April 1988) are the same on 11th April 1988 as they were at the date of the claim for family income supplement.

(2) In a case to which regulation 3(2) or (3) applies, the weekly earnings of the claimant and, if he is a member of a married or unmarried couple, those of the other member shall be calculated by deducting from the weekly earnings

as calculated for the purpose of assessing entitlement to family income supplement—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying the basic rate of tax for the tax year 1987/88 to those earnings, less only the personal relief, appropriate to a week, to which the claimant is entitled under sections 8(1) and (2) and 14(1)(a) and (2) of the Income and Corporation Taxes Act 1970(a) (personal and additional relief); and
- (b) an amount in respect of primary Class 1 contributions equivalent to an amount calculated by applying the appropriate percentage rate specified in section 4(6B) of the Social Security (Northern Ireland) Act 1975(b) in respect of the tax year 1987/88 to those earnings.

(3) In a case to which regulation 3(2) or (3) applies the weekly income of a claimant and, if he is a member of a married or unmarried couple, that of the other member of the couple, other than earnings to which paragraph (2) applies, shall be calculated by deducting from the gross weekly income as calculated for the purpose of assessing entitlement to family income supplement the sums, where applicable, specified in Schedule 2 to the Family Credit (General) Regulations (Northern Ireland) 1987(c) (income other than earnings to be disregarded).

(4) Where the claimant is an employed earner or self-employed earner in the Republic of Ireland the amounts to be deducted for income tax and primary Class 1 contributions under this regulation shall be such amounts as, in the opinion of the adjudication officer, would have been deducted had the claimant been employed in Northern Ireland.

Determination of circumstances where family credit is claimed before 11th April 1988

7. In a case to which regulation 3(1) (claim received before 11th April 1988) applies, Article 21(5) of the Order (conditions of entitlement to family credit) shall be modified to the extent that the circumstances of the family (but not the ages of its members) shall be determined as at the date when the claim is received at an appropriate office.

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- (a) 1970 c. 10; section 8(1) was amended by paragraphs 1 and 5 of Schedule 6 to the Finance Act 1971 (c. 68), section 36 of the Finance Act 1985 (c. 54) and Article 2 of S.I. 1985/430; subsections (1A) and (1B) were added by section 31 of the Finance (No. 2) Act 1975 (c. 45) and amended by section 36 of the Finance Act 1985 and Article 2 of S.I. 1985/430; subsection (1A) was also amended by section 22 of the Finance Act 1977 (c. 36). Section 8(2) was amended by paragraphs 1 and 5 of Schedule 6 to the Finance Act 1971 and Article 2 of S.I. 1985/430; sub-paragraph (b) was substituted by paragraph 1 of Schedule 2 to the Finance (No. 2) Act 1979 (c. 47); sub-paragraph (b)(i) and (ii) was amended by section 139 of, and Part VI of Schedule 19 to, the Finance Act 1981 (c. 35) and section 157 of, and Part IV of Schedule 22 to, the Finance Act 1982 (c. 39); sub-paragraph (b)(iii) was added by section 27 of the Finance Act 1981 and sub-paragraph (b)(iv) was added by section 27 of the Finance Act 1987 (c. 16). Section 14(1) was amended by section 14 of, and Part VI of Schedule 8 to, the Finance Act 1970 (c. 24). Section 14(2) was amended by section 36 of the Finance Act 1976 (c. 40), paragraph 2 of Schedule 1 to the Finance (No. 2) Act 1979 and section 24 of the Finance Act 1980 (c. 48)
 - (b) See sections 1 and 4 of the Social Security (Northern Ireland) Act 1975 (c. 15); section 4 was amended by paragraph 18(a) of Schedule 5 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)), Article 3(1) of the Social Security and Family Allowances (Northern Ireland) Order 1976 (S.I. 1976/427 (N.I. 9)), Article 11(2) of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)), Schedule 5 to the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16)), Articles 9(1) and (2) and 10 of the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), paragraph 69 of Schedule 9 to the Social Security (Northern Ireland) Order 1986 and Article 2 of S.R. 1987 No. 26
 - (c) S.R. 1987 No. 463

Entitlement to family credit following entitlement to family income supplement

8.—(1) Where a claim for family credit is treated as made on 11th April 1988 by virtue of regulation 3(2) (pre-existing entitlement to family income supplement), and all the conditions of entitlement to family credit as modified by regulation 6 (determination of circumstances where family credit replaces family income supplement) are satisfied, including the capital conditions in Article 23(6) of the Order and the income conditions in Article 21(5)(a) of the Order, family credit shall be awarded at the rate at which family income supplement was payable on 5th April 1988, together with an additional £2.55 per week for each child or young person included in the family for which family income supplement was payable on 5th April 1988, except where such a rate would be lower than the rate at which family credit would otherwise be payable.

(2) Where a claim for family credit is treated as made on 11th April 1988 by virtue of regulation 3(2), and, apart from the income conditions in Article 21(5)(a) of the Order, all the conditions of entitlement to family credit as modified by regulation 6, including the capital conditions in Article 23(6) of the Order, are satisfied, family credit shall be awarded at the rate at which family income supplement was payable on 5th April 1988, together with an additional £2.55 per week for each child or young person included in the family for which family income supplement was payable on 5th April 1988.

(3) In the case of an award of family credit on a claim treated as made on 11th April 1988 by virtue of regulation 3(1) or (2); in respect of a person for whom family income supplement was payable on 5th April 1988, the first day of the award (namely 11th April 1988) shall be treated as a week for the purpose of calculating—

- (a) the amount payable; and
- (b) the number of weeks for which family credit should be payable under Article 21(6) of the Order (period for which family credit payable), as modified by regulation 9 (initial periods of family credit).

Initial periods of family credit

9.—(1) In the case of an award of family credit on a claim treated as made on 11th April 1988 by virtue of regulation 3(2) (pre-existing entitlement to family income supplement), Article 21(6) of the Order (period for which family credit payable) shall be modified by the substitution for “for a period of 26 weeks or such other period as may be prescribed, beginning with the week in which a claim for it is made or is treated as made and” of “for a period beginning with the week in which a claim for it is made or is treated as made and ending 52 weeks after the start of the most recent award of family income supplement, or on such earlier date as the Department shall, in any particular case, decide and”.

(2) In the case of an award of family credit on any claim made or treated as made before 5th October 1988, except an award to which paragraph (1) applies, Article 21(6) of the Order shall be modified by the substitution for “for a period of 26 weeks or such other period as may be prescribed” of “for such period of at least 14 weeks but not more than 39 weeks, as the Department shall in any particular case decide”.

Sealed with the Official Seal of the Department of Health and Social Services on 21st December 1987.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make transitional provision for awards of family credit on claims made before 11th April 1988 (which is when the family credit provisions in Part III of the Social Security (Northern Ireland) Order 1986 ("the Order") come into operation) and in the six months after that date.

Regulation 3 provides for cases where family credit is to be treated as claimed on 11th April 1988.

Regulation 4 treats certain claims for family credit as including claims for family income supplement until 11th April 1988. Wherever both benefits are claimed regulation 5 requires entitlement to family income supplement to be determined first.

Regulations 6 and 7 make transitional provision for the determination of circumstances (and modify Article 21(5) of the Order in this regard) where the claim for family credit is treated as made on 11th April 1988.

Regulation 8 provides that, where an award of family credit follows an award of family income supplement, the rate is to be at least as beneficial as if the award of family income supplement had continued and the payment for 11th April 1988 is to be treated as a payment for a full week.

Regulation 9 provides for initial awards of family credit to be for periods other than 26 weeks (and modifies Article 21(6) of the Order in this regard).

These regulations contain only provisions consequential on Articles 21 to 23 of the Order and regulations made under those Articles in their application to family credit and are made before the expiry of 12 months from the commencement of those Articles. Accordingly the regulations are exempt, by Article 62(5) of the Order, from reference to the Social Security Advisory Committee and have not been so referred.