

1988 No. 146

SOCIAL SECURITY

**The Income Support (General) (Amendment) Regulations
(Northern Ireland) 1988**

Made 8th April 1988

Coming into operation 11th April 1988

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 21(3)(d), (12)(b), (d) and (k), 22(1A), 23(1), (2), (4), (8) and (9) and 24(5A) 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) Regulations (Northern Ireland) 1988 and shall come into operation on 11th April 1988.

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

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation)—

(a) for the definition of “dwelling occupied as the home” there shall be substituted the following definition—

“ “dwelling occupied as the home” means the dwelling including any garage, garden and outbuildings normally occupied by the claimant as his home, together with—

(a) any agricultural land adjoining that dwelling; and

(b) any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately;”;

(b) after the definition of “lone parent” there shall be inserted the following definition—

“ “the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State for Social Services to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;”;

(a) S.I. 1986/1888 (N.I. 18); Articles 22(1A) and 24(5A) were inserted by paragraphs 16 and 17 of Schedule 4 to the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2)); 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

(c) after the definition of “polygamous marriage” there shall be inserted the following definition—

“ “premises” where it appears in Schedules 9 and 10 means a dwelling, including any garage, garden and out-buildings together with any agricultural land adjoining that dwelling and any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately;”;

(d) in the definition of “relevant enactment” for “regulation 16(8)(a)” there shall be substituted “regulation 16(8)”.

Amendment of regulation 4 of the principal regulations

3. In regulation 4(2)(c) of the principal regulations (temporary absence from Northern Ireland) after head (iv) there shall be added the following—

“or

(v) on the day on which the absence began he was, and had for the previous 28 weeks at least been, continuously incapable of work.”.

Amendment of regulation 5 of the principal regulations

4. In regulation 5(4) of the principal regulations (persons treated as engaged in remunerative work) after “applies” there shall be inserted “or applied”.

Amendment of regulation 6 of the principal regulations

5. In regulation 6(e) of the principal regulations (persons not treated as engaged in remunerative work) after “applies” there shall be inserted “or in respect of whom Article 21(3) of the Order (conditions of entitlement to income support) has effect as modified by Article 24A(b) of the Order(a) (effect of return to work)”.

Amendment of regulation 8 of the principal regulations

6. In regulation 8 of the principal regulations (persons not required to be available for employment) after paragraph (2) there shall be added the following paragraph—

“(3) A person, other than one to whom regulation 10(1)(h) applies, to whom none of the provisions of Schedule 1 applies, shall, for any period when—

(a) he would, were he required to be available for employment, not be treated as so available under regulation 9(1); and

(b) the adjudication officer is satisfied that, unless income support is paid, the claimant or a member of his family (if any) will suffer hardship,

not be required to be available for employment.”.

(a) Article 24A was added by paragraph 18 of Schedule 4 to the Social Security (Northern Ireland) Order 1988

Amendment of regulation 10 of the principal regulations

7. In regulation 10(2) of the principal regulations (circumstances in which claimants are not to be treated as available for employment) for “13” wherever it appears there shall be substituted “26”.

Amendment of regulation 16 of the principal regulations

8. In regulation 16 of the principal regulations (circumstances in which a person is to be treated as being or not being a member of the household)—

- (a) in paragraph (1) for “where any of them” there shall be substituted “notwithstanding that any of them”;
- (b) in paragraph (2) after “(housing costs)” there shall be inserted “unless that person has been a patient within the meaning of regulation 21(3) for a period in excess of 52 weeks and is not a member of a couple or of a polygamous marriage”;
- (c) in paragraph (3)(c) for “paragraph (a)” there shall be substituted “sub-paragraph (a) or (b)”;
- (d) in paragraph (5)(b) for “residential accommodation” there shall be substituted “accommodation provided under the provisions referred to in sub-paragraph (a) or (b) of the definition of residential accommodation in regulation 21(3)”.

Amendment of regulation 19 of the principal regulations

9. In regulation 19 of the principal regulations (applicable amounts for persons in homes for persons in need and nursing homes) for paragraph (1) there shall be substituted the following paragraphs—

“(1) Subject to regulation 22 (reductions in applicable amounts) where—

- (a) the claimant lives in a home for persons in need or nursing home;
or
- (b) if the claimant is a member of a family, he and the members of his family live in such a home,

his weekly applicable amount shall, except in a case to which regulation 21 (special cases) or Part II of Schedule 4 (persons to whom regulation 19 does not apply) applies, be calculated in accordance with Part I of that Schedule.

(1A) For the purposes of paragraph (1)(b) a claimant and the members of his family are to be taken as living in a home for persons in need or nursing home even during periods when one or more members of the family are temporarily absent from the home but only if the claimant or his partner is living in the home during any such period.”

Amendment of regulation 20 of the principal regulations

10. In regulation 20 of the principal regulations (applicable amounts for persons in board and lodging accommodation and hostels) for paragraph (1) there shall be substituted the following paragraphs—

“(1) Subject to regulation 22 (reductions in applicable amounts) where—

- (a) the claimant lives in board and lodging accommodation or a hostel; or
- (b) if the claimant is a member of a family, he and the members of his family live in such accommodation,

his weekly applicable amount shall, except in a case to which regulation 21 (special cases) or Part II of Schedule 5 (persons to whom regulation 20 does not apply) applies, be calculated in accordance with Part I of that Schedule.

(1A) For the purposes of paragraph (1)(b) a claimant and the members of his family are to be taken as living in board and lodging accommodation or a hostel even during periods when one or more members of the family are temporarily absent from the accommodation but only if the claimant or his partner is living in the accommodation during any such period.”.

Amendment of regulation 22 of the principal regulations

11. In regulation 22 of the principal regulations (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification)—

- (a) in paragraph (5) after “8(2)” there shall be inserted “or (3)”;
- (b) except where a person’s applicable amount would otherwise be calculated subject to the modification made by regulation 8(3) of the Income Support (Transitional) Regulations (Northern Ireland) 1987(a) (treatment for income support purposes of periods relating to supplementary benefit), in paragraph (6) for “13” wherever it appears there shall be substituted “26”.

Amendment of regulation 24 of the principal regulations

12. In regulation 24 of the principal regulations (treatment of charitable or voluntary payments)—

- (a) in paragraph (1) the words from “, other than one” to “applies,” shall be omitted;
- (b) for paragraph (5) there shall be substituted the following paragraph—
 - “(5) This regulation shall not apply—
 - (a) to a person to whom Article 24 of the Order (trade disputes) applies or in respect of whom Article 21(3) of the Order (conditions of entitlement to income support) has effect as modified by Article 24A(b) of the Order (effect of return to work) or to a member of his family;
 - (b) to a payment—
 - (i) which is or is due to be made at regular intervals,
 - (ii) to which regulation 44(2) (modifications in respect of children and young persons) applies,
 - (iii) made under the Macfarlane Trust.”.

Substitution of regulation 27 of the principal regulations

13. For regulation 27 of the principal regulations (disregard of fractions) there shall be substituted the following regulation—

“Rounding of fractions

27. Where any calculation under this Part results in a fraction of a penny that fraction shall, if it would be to the claimant’s advantage, be treated as a penny, otherwise it shall be disregarded.”.

Amendment of regulation 31 of the principal regulations

14. In regulation 31(2) of the principal regulations (date on which income is treated as paid) for “it is paid” there shall be substituted “it is payable”.

Amendment of regulation 32 of the principal regulations

15. In regulation 32 of the principal regulations (calculation of weekly amount of income)—

(a) in paragraph (1) “and regulation 34 (incomplete benefit weeks)” shall be omitted;

(b) in paragraph (4)(a) for “paid” there shall be substituted “payable”.

Omission of regulation 34 of the principal regulations

16. Regulation 34 of the principal regulations (incomplete weeks of benefit) shall be omitted.

Amendment of regulation 35 of the principal regulations

17. In regulation 35(1)(d) of the principal regulations (earnings of employed earners) for the words from “, and for so long as” to the end of that sub-paragraph there shall be substituted “Article 24 of the Order (trade disputes) applies or in respect of whom Article 21(3) of the Order (conditions of entitlement to income support) has effect as modified by Article 24A(b) of the Order (effect of return to work),”.

Amendment of regulation 41 of the principal regulations

18. In regulation 41(3) of the principal regulations (capital treated as income) for “and for so long as it applies” there shall be substituted “or in respect of whom Article 21(3) of the Order (conditions of entitlement to income support) has effect as modified by Article 24A(b) of the Order (effect of return to work)”.

Amendment of regulation 42 of the principal regulations

19. In regulation 42 of the principal regulations (notional income)—

(a) in paragraph (2) for “it would be so acquired” there shall be substituted “it could be expected to be acquired were an application made”;

(b) in paragraph (4)—

(i) at the beginning for “Any payment of income” there shall be substituted “Any payment of income, other than a payment of income made under the Macfarlane Trust,”,

- (ii) in sub-paragraph (a)(ii) after “17(e) or 18(f) (housing costs)” there shall be inserted “or accommodation charge to the extent that it is met under regulation 19 or 20 (persons in homes for persons in need and nursing homes or in board and lodging accommodation and hostels)”;
- (c) in paragraph (5), for “the circumstances of the case having regard to” there shall be substituted “all the circumstances of the case including as appropriate”.

Amendment of regulation 44 of the principal regulations

20. In regulation 44 of the principal regulations (modifications in respect of children and young persons) after paragraph (8) there shall be added the following paragraph—

“(9) For the purposes of this regulation, a child or young person shall not be treated as present at his educational establishment on any day if on that day he spends the night with the claimant or a member of his household.”.

Amendment of regulation 48 of the principal regulations

21. In regulation 48 of the principal regulations (income treated as capital) for paragraph (6) there shall be substituted the following paragraph—

“(6) Paragraph (5) shall not apply to a person to whom Article 24 of the Order (trade disputes) applies or in respect of whom Article 21(3) of the Order (conditions of entitlement to income support) has effect as modified by Article 24A(b) of the Order (effect of return to work).”.

Amendment of regulation 51 of the principal regulations

22. In regulation 51 of the principal regulations (notional capital)—

- (a) in paragraph (2) for “it would be so acquired” there shall be substituted “it could be expected to be acquired were an application made”;
- (b) in paragraph (3)—
 - (i) at the beginning for “Any payment of capital” there shall be substituted “Any payment of capital, other than a payment of capital made under the Macfarlane Trust,”;
 - (ii) in sub-paragraph (a)(ii) after “17(e) and 18(f) (housing costs)” there shall be inserted “or accommodation charge to the extent that it is met under regulation 19 or 20 (persons in homes for persons in need and nursing homes or in board and lodging accommodation and hostels)”;
- (c) after paragraph (6) there shall be added the following paragraph—

“(7) For the avoidance of doubt a claimant is to be treated as possessing capital under paragraph (1) only if the capital of which he has deprived himself is actual capital.”.

Amendment of regulation 52 of the principal regulations

23. In regulation 52(2) of the principal regulations (capital jointly held) after “premises” there shall be inserted “or land”.

Amendment of regulation 54 of the principal regulations

24. In regulation 54 of the principal regulations (liable relatives) in the definition of “payment” for “it would be so acquired” there shall be substituted “it could be expected to be acquired were an application made”.

Amendment of regulation 62 of the principal regulations

25. In regulation 62 of the principal regulations (calculation of grant income)—

(a) in paragraph (3) after “grant income” there shall be inserted “, except any amount intended for the maintenance of dependants under Part III of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1987(a) or intended for an older student under Part IV of that Schedule.”;

(b) after paragraph (3) there shall be inserted the following paragraph—
“(3A) Any amount intended for the maintenance of dependants or for an older student under the provisions referred to in paragraph (3) shall be apportioned equally over a period of 52 weeks or, if there are 53 benefit weeks (including part-weeks) in the year, 53 weeks.”.

Amendment of regulation 71 of the principal regulations

26. In regulation 71 of the principal regulations (applicable amounts in urgent cases)—

(a) in paragraph (1)(a) for “sub-paragraph (b) or (c)” there shall be substituted “sub-paragraph (b), (c) or (d)”;

(b) after paragraph (1)(c) there shall be added the following sub-paragraph—

“(d) except where sub-paragraph (b) or (c) applies, in the case of a person to whom any paragraph, other than paragraph 15, in column (1) of Schedule 7 (special cases) applies, the amount shall be 90% of the amount applicable in column (2) of that Schedule in respect of the claimant and partner (if any), plus, if applicable—

(i) any amount in respect of a child or young person who is a member of the family except a child or young person whose capital, if calculated in accordance with Part V in like manner as for the claimant, except where otherwise provided, would exceed £3,000,

(ii) any premium under paragraph 9 or 10 of Schedule 2 (applicable amounts), and

(iii) any housing costs under regulation 17(e) or 18(f).”;

(c) after paragraph (2) there shall be added the following paragraph—

“(3) Where the calculation of a claimant’s applicable amount under this regulation results in a fraction of a penny that fraction shall be treated as a penny.”.

Amendment of regulation 72 of the principal regulations

27. In regulation 72(1)(a) of the principal regulations (assessment of income and capital in urgent cases) after "any income" there shall be inserted ", other than income disregarded under paragraph 39 of Schedule 9 (income to be disregarded),".

Insertion of Part VII in the principal regulations

28. After Part VI of the principal regulations (urgent cases) there shall be inserted the following Part—

"PART VII

CALCULATION OF INCOME SUPPORT FOR PART-WEEKS

Amount of income support payable

73.—(1) Subject to regulations 75 (modifications in the calculation of income) and 76 (reduction in certain cases), where a claimant is entitled to income support for a period (referred to in this Part as a part-week) to which Article 22(1A) of the Order(a) (amount etc. of income-related benefit), applies, the amount of income support payable shall, except where paragraph (2) applies, be calculated in accordance with the following formulae—

(a) if the claimant has no income, $N \times A$;

(b) if the claimant has income, $\left(\frac{N \times (A - I)}{7} \right) - B$.

(2) Subject to regulations 75 and 76, in the case of a claimant to whom regulation 19 or, as the case may be, 20 (persons in homes for persons in need and nursing homes or board and lodging accommodation and hostels) applies, where the weekly charge for the accommodation is due to be paid during a part-week to which regulation 74(1)(a) or (b) (relevant week) applies, the amount of income support payable shall be calculated in accordance with the following formulae—

(a) if the claimant has no income, A;

(b) if the claimant has income, $(A - I) - B$.

(3) In this regulation—

"A", subject to paragraph (4), means the claimant's weekly applicable amount in the relevant week;

"B" means the amount of any income support, unemployment benefit, sickness or invalidity benefit, or severe disablement allowance under the principal Act payable in respect of any day in the part-week;

"I" means his weekly income in the relevant week less B;

"N" means the number of days in the part-week;

(a) Paragraph (1A) was inserted by paragraph 16 of Schedule 4 to the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2))

“relevant week” means the period of 7 days determined in accordance with regulation 74.

(4) In a case to which paragraph (2) applies, a claimant’s weekly applicable amount shall be—

(a) where the weekly charge for the accommodation includes all meals, the aggregate of the following amounts—

(i) the weekly charge for the accommodation determined in accordance with paragraph 1(1)(a) of Schedule 4 or, as the case may be, paragraph 1(1)(a) of Schedule 5, and

(ii) the amount calculated in accordance with the formula—

$$\frac{(N \times P)}{7} + \frac{(N \times H)}{7};$$

(b) where the weekly charge for the accommodation does not include all meals, the aggregate of the following amounts—

(i) the weekly charge for the accommodation determined in accordance with paragraph 1(1)(a) of Schedule 4 or, as the case may be, paragraph 1(1)(a) of Schedule 5 less M, and

(ii) the amount calculated in accordance with the formula—

$$\frac{(N \times M)}{7} + \frac{(N \times P)}{7} + \frac{(N \times H)}{7}.$$

(5) In paragraph (4)—

“H” means the weekly amount determined in accordance with paragraph 1(1)(c) of Schedule 4 or, as the case may be, paragraph 1(1)(c) of Schedule 5;

“M” means the amount of the increase for meals calculated on a weekly basis in accordance with paragraph 2(2) of Schedule 4 or, as the case may be, paragraph 2 of Schedule 5;

“P” means the weekly amount for personal expenses determined in accordance with paragraph 12 of Schedule 4 or, as the case may be, paragraph 11 of Schedule 5.

Relevant week

74.—(1) Where the part-week—

(a) is the whole period for which income support is payable or occurs at the beginning of the claim, the relevant week is the period of 7 days ending on the last day of that part-week; or

(b) occurs at the end of the claim, the relevant week is the period of 7 days beginning on the first day of that part-week.

(2) Where during the currency of a claim the claimant makes a claim for a relevant social security benefit within the meaning of paragraph 4 of Schedule 7 to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(a) and as a result his benefit week changes, for the purpose of calculating the amount of income support payable—

- (a) for the part-week beginning on the day after his last complete benefit week before the date from which he makes a claim for the relevant social security benefit and ending immediately before that date, the relevant week is the period of 7 days beginning on the day after his last complete benefit week (the first relevant week);
- (b) for the part-week beginning on the date from which he makes a claim for the relevant social security benefit and ending immediately before the start of his next benefit week after the date of that claim, the relevant week is the period of 7 days ending immediately before the start of his next benefit week (the second relevant week).

(3) Where during the currency of a claim the claimant's benefit week changes at the direction of the Department under paragraph 3 of Schedule 7 to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987, for the purpose of calculating the amount of income support payable for the part-week beginning on the day after his last complete benefit week before the change and ending immediately before the change, the relevant week is the period of 7 days beginning on the day after the last complete benefit week.

Modifications in the calculation of income

75. For the purposes of regulation 73 (amount of income support payable), a claimant's income and the income of any person which the claimant is treated as possessing under Article 23(5) of the Order or regulation 23(3) shall be calculated in accordance with Part V and, where applicable, Part VI subject to the following modifications—

- (a) any income which is due to be paid in the relevant week shall be treated as paid on the first day of that week;
- (b) any income support, unemployment benefit, sickness or invalidity benefit, or severe disablement allowance under the principal Act payable in the relevant week but not in respect of any day in the part-week shall be disregarded;
- (c) where the part-week occurs at the end of the claim, any income or any change in the amount of income of the same kind which is first payable within the relevant week but not on any day in the part-week shall be disregarded;
- (d) where the part-week occurs immediately after a period in which a person was treated as engaged in remunerative work under regulation 5(5) (persons treated as engaged in remunerative work) any earnings which are taken into account for the purposes of determining that period shall be disregarded;
- (e) where regulation 74(2) (relevant week) applies, any payment of income which—
 - (i) is the final payment in a series of payments of the same kind or, if there has been an interruption in such payments, the last one before the interruption,
 - (ii) is payable in respect of a period not exceeding a week, and

- (iii) is due to be paid on a day which falls within both the first and second relevant weeks,
shall be taken into account in either the first relevant week or, if it is impracticable to take it into account in that week, in the second relevant week; but this paragraph shall not apply to a payment of income support, unemployment benefit, sickness or invalidity benefit, or severe disablement allowance under the principal Act;
- (f) where regulation 74(2) applies, any payment of income which—
- (i) is the final payment in a series of payments of the same kind or, if there has been an interruption in such payments, the last one before the interruption,
 - (ii) is payable in respect of a period exceeding a week but not exceeding 2 weeks, and
 - (iii) is due to be paid on a day which falls within both the first and second relevant weeks,
shall be disregarded; but this paragraph shall not apply to a payment of income support, unemployment benefit, sickness or invalidity benefit, or severe disablement allowance under the principal Act;
- (g) where regulation 74(2) applies, if the weekly amount of any income which is due to be paid on a day which falls within both the first and second relevant weeks is more than the weekly amount of income of the same kind due to be paid in the last complete benefit week, the excess shall be disregarded;
- (h) where only part of the weekly amount of income is taken into account in the relevant week, the balance shall be disregarded.

Reduction in certain cases

76. There shall be deducted from the amount of income support which would, but for this regulation, be payable for a part-week—

- (a) in the case of a claimant to whom regulation 22(1) or (2) (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification) applies, the proportion of the relevant amount specified therein appropriate to the number of days in the part-week;
- (b) where regulation 75(f) (modifications in the calculation of income) applies, one half of the amount disregarded under regulation 75(f) less the weekly amount of any disregard under Schedule 8 or 9 appropriate to that payment.

Modification of Article 24(5) of the Order

77. Where income support is payable for a part-week, Article 24(5) of the Order (trade disputes) shall have effect as if the following sub-paragraph were substituted for sub-paragraph (b)—

- “(b) any payment by way of income support for a part-week which apart from this sub-paragraph would be made to him, or to a person whose applicable amount is aggregated with his—

- (i) shall not be made if the payment for that part-week is equal to or less than the proportion of the relevant sum appropriate to the number of days in the part-week; or
- (ii) if it is more than that proportion, shall be made at a rate equal to the difference.”’”.

Amendment of Schedule 1 to the principal regulations

29. In paragraph 19 of Schedule 1 to the principal regulations (persons not required to be available for employment) for the words from “Article 24(8)” to the end there shall be substituted “Article 24A(b) of the Order (effect of return to work).”’.

Amendment of Schedule 2 to the principal regulations

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

- a)* in paragraph 10 after “paragraph 12(1)(a)” wherever it appears there shall be inserted “or (c)”;
- (b)* in paragraph 11—
 - (i) in sub-paragraph (b)(i) for “12(1)(a) or (b)” there shall be substituted “12(1)(a), (b) or (c)”;
 - (ii) in sub-paragraph (b)(ii) after “12(1)(a)” there shall be inserted “or (c)”;
- (c)* in paragraph 12—
 - (i) in sub-paragraph (1)(a)(i) after “that Act” there shall be inserted “but, in the case of invalidity pension or severe disablement allowance only where it is paid in respect of him”;
 - (ii) in sub-paragraph (1)(b) for “a period” there shall be substituted “a continuous period”;
- (d)* in paragraph 13 after sub-paragraph (3) there shall be inserted the following sub-paragraph—

“(3A) For the purposes of sub-paragraph (2)(b) a person shall be treated as being in receipt of—

 - (a)* attendance allowance if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
 - (b)* invalid care allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so in receipt.”;
- (e)* in paragraph 15(5)(b)(i) after “allowance” there shall be added “or if he or any partner satisfies that condition only by virtue of paragraph 13(3A)”’.

Amendment of Schedule 3 to the principal regulations

31. In Schedule 3 to the principal regulations (housing costs) in paragraph 7(1)(b) at the beginning there shall be inserted “except where sub-paragraph (1)(a) applies,”’.

Amendment of Schedule 4 to the principal regulations

32. In Schedule 4 to the principal regulations (persons in homes for persons in need and nursing homes)—

- (a) paragraph 4 shall be omitted;
- (b) for paragraph 13 there shall be substituted the following paragraph—

“13. A claimant or, if he is a member of a family, the claimant and the members of his family where the accommodation and meals (if any) of the claimant or, as the case may be, the claimant and the members of his family are provided in whole or in part by a close relative of his or of any member of his family, or other than on a commercial basis.”.

Amendment of Schedule 5 to the principal regulations

33. In Schedule 5 to the principal regulations (persons in board and lodging accommodation or hostels)—

- (a) paragraph 4 shall be omitted;
- (b) for paragraph 12 there shall be substituted the following paragraph—

“12. A claimant or, if he is a member of a family, the claimant and the members of his family where the accommodation and meals (if any) of the claimant or, as the case may be, the claimant and the members of his family are provided in whole or in part by a close relative of his or of any member of his family, or other than on a commercial basis.”.

Amendment of Schedule 7 to the principal regulations

34. In Schedule 7 to the principal regulations (special cases)—

- (a) in column (1), paragraphs 9(c) and 10(c) shall be omitted;
- (b) after paragraph 10 there shall be inserted the following paragraphs—

“*Single claimants temporarily in accommodation provided by a Health and Social Services Board*

10A. Except where paragraph 10B(4) applies, a single claimant who is temporarily in accommodation referred to in sub-paragraph (a) or (b) of the definition of residential accommodation in regulation 21(3) (special cases).

10A. The applicable amount in respect of him prescribed under regulation 17.

Couples and members of polygamous marriages where one member is or all are temporarily in accommodation provided by a Health and Social Services Board

10B.—(1) A claimant who is a member of a couple and temporarily separated from his partner where one of them is living in the home while the other is in accommodation referred to in sub-paragraph (a) or (b) of the definition of residential accommodation in regulation 21(3) (special cases).

(2) A claimant who is a member of a polygamous marriage and who is temporarily separated from a partner of his where one is, or some are, living in the home while one is, or some are, in accommodation referred to in sub-paragraph (1).

(3) A claimant who is a member of a couple or a member of a polygamous marriage where both members of that couple or all the members of that marriage are in accommodation referred to in sub-paragraph (1).

(4) A claimant who is a member of a couple or of a polygamous marriage to whom regulation 16(1) (members of the household) does not apply by virtue of paragraph (3)(c) of that regulation where the member is in accommodation referred to in sub-paragraph (1).

(c) in column (2), in paragraph 16—

- (i) in sub-paragraph (b)(ii), in case three, for “sub-paragraph (b)(iii)” there shall be substituted “this head”,
- (ii) in sub-paragraph (b)(iii), in case two, for “sub-paragraph (b)(ii)” there shall be substituted “this head”,
- (iii) in sub-paragraph (b)(iv), in case two, for “a member” and “that member” there shall be substituted in both places “each member”,
- (iv) in sub-paragraph (b)(iv), in case four, for the words from “and the member of the couple” to “lone parent patient” there shall be substituted “remaining in the accommodation and the members of the couple or polygamous marriage”.

(1) The aggregate of the amount applicable to the member who remains in the home calculated as if he were a single claimant under regulation 17, 19, 20 or 21 and in respect of the other member, £41·15 of which £32·90 is in respect of the cost of the accommodation and £8·25 for personal expenses.

(2) The aggregate of the amount applicable for the members of the polygamous marriage who remain in the home under regulation 18 and in respect of each member not in the home £41·15 of which £32·90 is in respect of the accommodation and £8·25 for personal expenses.

(3) For each member of that couple or marriage £41·15, of which £32·90 is in respect of the accommodation and £8·25 for personal expenses plus, if appropriate, the amount applicable under regulation 17(e) or 18(f).

(4) £41·15 of which £32·90 is in respect of the accommodation and £8·25 for personal expenses.”;

Amendment of Schedule 8 to the principal regulations

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

- (a) in paragraphs 1 and 2 after “as an employed earner” there shall be inserted “or, had the employment been in Northern Ireland, would have been so engaged”;
- (b) in paragraph 3 after “as a self-employed earner” there shall be inserted “or, had the employment been in Northern Ireland, would have been so engaged”.

Amendment of Schedule 9 to the principal regulations

36. In Schedule 9 to the principal regulations (sums to be disregarded in the calculation of income other than earnings)—

- (a) after paragraph 4 there shall be inserted the following paragraph—
 - “4A. In the case of the payment of statutory sick pay under Part I of the Social Security and Housing Benefits Act 1982(a) or statutory maternity pay under Part V of the Social Security Act 1986(b)—
 - (a) any amount deducted by way of primary Class 1 contributions under the Social Security Act 1975(c);
 - (b) one half of any sum paid by way of a contribution towards an occupational or personal pension scheme.”;
- (b) for paragraph 13 there shall be substituted the following paragraph—
 - “13. In the case of a claimant participating in arrangements for training made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(d) or attending a course at an employment rehabilitation centre established under that section—
 - (a) any travelling expenses reimbursed to the claimant;
 - (b) any lodging allowance under section 3(3) of that Act but only to the extent that his rent or rates payable in respect of accommodation not normally occupied by him as his home are not met by housing benefit;
 - (c) any training premium under that Act,
 but this paragraph, except in so far as it relates to a payment under sub-paragraph (a), (b) or (c), does not apply to any part of any allowance under section 3(3) of that Act.”;
- (c) in paragraphs 15 and 28 for “and for so long as it applies” there shall be substituted “or in respect of whom Article 21(3) of the Order (conditions of entitlement to income support) has effect as modified by Article 24A(b) of the Order (effect of return to work)”;
- (d) for paragraph 21 there shall be substituted the following paragraph—

(a) 1982 c. 24

(b) 1986 c. 50

(c) 1975 c. 14

(d) 1950 c. 29 (N.I.) section 1(1) was substituted by Article 24 of the Industrial Relations (Northern Ireland) Order 1987 (S.I. 1987/936 (N.I. 9))

21.—(1) Subject to sub-paragraph (2), except where regulation 42(4)(a)(i) (notional income) applies or in the case of a person to whom Article 24 of the Order (trade disputes) applies, any income in kind.

(2) The exception under sub-paragraph (1) shall not apply where the income in kind is received from the Macfarlane Trust.”;

(e) in paragraph 22—

(i) in sub-paragraph (1), for “sub-paragraph (2)” there shall be substituted “sub-paragraphs (2) and (3)”;

(ii) for sub-paragraph (2) there shall be substituted the following sub-paragraphs—

“(2) Income derived from capital disregarded under paragraph 2 or 4 of Schedule 10 but, subject to sub-paragraph (3), only to the extent of any mortgage repayments and payment of rates made in respect of the premises or land in the period during which that income accrued.

(3) Where income is derived from conacre or agistment letting any expenses reasonably incurred thereon including the repayment of interest and capital on any loan used for the purchase of land under the Northern Ireland Land Act 1925(a).”;

(f) in paragraph 30 for “paragraph 28” there shall be substituted “paragraph 29”;

(g) after paragraph 37 there shall be added the following paragraphs—

“38. Any resettlement benefit which is paid to the claimant by virtue of regulation 3 of the Social Security (Hospital In-Patients) (Amendment No. 2) Regulations (Northern Ireland) 1987(b).

39. Any payment made under the Macfarlane Trust.”.

Amendment of Schedule 10 to the principal regulations

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

(a) for paragraph 2 there shall be substituted the following paragraph—

“2. Any premises or land acquired for occupation by the claimant as his home which he intends to occupy within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the claimant to obtain possession and commence occupation of the premises or land.”;

(b) in paragraph 3, after “other premises” insert “or land”;

(c) in paragraph 4, for “Any premises occupied in whole or in part by” there shall be substituted “Any premises occupied in whole or in part as the home by”;

(d) in paragraph 17 for “and for so long as it applies” there shall be substituted “or in respect of whom Article 21(3) of the Order (conditions of entitlement to income support) has effect as modified by Article 24A(b) of the Order (effect of return to work).”;

(a) 1925 c. 34

(b) S.R. 1987 No. 391

(e) after paragraph 21 there shall be added the following paragraphs—

“22. Any payment made under the Macfarlane Trust and any sum derived from such a payment.

23. The value of the right to receive an occupational pension.

24. The value of the right to receive any rent.”.

Sealed with the Official Seal of the Department of Health and Social Services on 8th April 1988.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the Income Support (General) Regulations (Northern Ireland) 1987 with effect from 11th April 1988.

The principal changes are as follows:

- (a) they insert a new Part VII to make provision for the calculation of income support payable for periods of less than a week and modify Article 24(5) of the Order (trade disputes) in such cases (regulation 28);
- (b) they amend Part V to provide, in the calculation of income and capital, for the disregard of charitable payments made to haemophiliacs under the Macfarlane Trust and of certain other payments, make a number of miscellaneous amendments (regulations 2, 12 to 25, 27 and 35 to 37), make certain clarificatory amendments (regulations 2(c), 23 and 37(a) and provide for a disregard from income of expenses incurred in letting land (regulation 36(e));
- (c) they extend the provisions for entitlement to income support whilst abroad to persons who have been incapable of work for at least 28 weeks (regulation 3); except persons in cases of hardship from the requirement to be available for work (regulation 6); increase, in cases of voluntary unemployment, the maximum period for reductions in applicable amounts and non-availability for employment from 13 to 26 weeks (regulations 7 and 11(b)); provide for a single person in hospital over 52 weeks to be treated as a member of the household and for a partner in accommodation provided by the Department under certain enactments not to be so treated (regulation 8(b) and (c));
- (d) they extend the urgent cases provisions to claimants of a specified description (regulation 26); provide in certain circumstances for entitlement to a higher pensioner or severe disablement premium where mobility or attendance allowance is not in payment (regulation 30); and make provision for determining the applicable amount of persons temporarily in accommodation provided by the Health and Social Services Board (regulation 34).

The regulations also make a number of minor or drafting amendments (regulations 8(a) and (d), 9, 10, 31, 32(b), 33(b) and 34(d)), and amendments consequential on the insertion of the new Article 24A of the Social Security (Northern Ireland) Order 1986 ("the Order") made by the Social Security (Northern Ireland) Order 1988 (regulations 4, 5, 12(b), 17, 18, 21, 29 and 37(d)) or on these regulations (regulations 11(a), 32(a) and 33(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 Order from reference to the Social Security Advisory Committee and have not been so referred.