

1991 No. 46

SOCIAL SECURITY

**The Income Support (General) (Amendment)
Regulations (Northern Ireland) 1991**

Made 14th February 1991

Coming into operation—
regulations 1, 8 and 9 13th March 1991
regulations 2 to 7 and
10 to 12 8th April 1991

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(1)(a), (3)(a) and (d), (4) and (12)(d) and (e) and 23(1), (8) and (9) of the Social Security (Northern Ireland) Order 1986(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Income Support (General) (Amendment) Regulations (Northern Ireland) 1991 and shall come into operation, in relation to a particular claimant, as follows—

- (a) regulations 1, 8 and 9 at the beginning of the first benefit week to commence for that claimant on or after 13th March 1991;
- (b) regulations 2 to 7 and 10 to 12 at the beginning of the first benefit week to commence for that claimant on or after 8th April 1991.

(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(b).

Amendment of regulation 8 of the principal regulations

2. In regulation 8 of the principal regulations (persons not required to be available for employment)—

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- (a) S.I. 1986/1888 (N.I. 18); Article 21(3) was amended by Article 6(1) of the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2)) and by Article 15(1) of the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)); Article 21(12)(d) was substituted by Article 15(2) of the Social Security (Northern Ireland) Order 1989; 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; the relevant amending regulations are S.R. 1988 Nos. 146, 274 and 318, S.R. 1989 Nos. 249 and 365 and S.R. 1990 Nos. 131, 297 and 305

- (a) in paragraph (2) “other than paragraph 5” shall be omitted; and in sub-paragraph (a) for “regulation 8 of the Social Security (Adjudication) Regulations (Northern Ireland) 1987 (medical references)” there shall be substituted “section 115A of the Social Security (Northern Ireland) Act 1975(a) (power of adjudicating authorities to refer matters to experts)”;
- (b) in paragraph (3) after “other than one to whom” there shall be inserted “paragraph (2) or”.

Amendment of regulation 11 of the principal regulations

3. In regulation 11(2)(a) of the principal regulations (registration for employment) for “regulation 8 of the Social Security (Adjudication) Regulations (Northern Ireland) 1987 (medical references)” there shall be substituted “section 115A of the Social Security (Northern Ireland) Act 1975 (power of adjudicating authorities to refer matters to experts)”.

Amendment of regulation 13 of the principal regulations

4. In regulation 13(2)(d) of the principal regulations (circumstances in which persons in relevant education are to be entitled to income support) for “parents or any” there shall be substituted “parents and any”; and in head (i) for “parents or that person” there shall be substituted “parents and that person”.

Amendment of regulation 13A of the principal regulations

5. In regulation 13A of the principal regulations (persons under 18 years)—

- (a) in paragraph (2)(b) for “as falls before” there shall be substituted “as falls on or before”;
- (b) in paragraph (3)(a) for “is the date” there shall be substituted “is the day before the date”;
- (c) in paragraph (4)—
- (i) for “Schedule 1A” there shall be substituted “Part I of Schedule 1A”;
 - (ii) sub-paragraph (b) shall be omitted;
- (d) for paragraph (5) there shall be substituted the following paragraph—
- “(5) Paragraph (4)(a) shall have effect for a period—
- (a) beginning on the date on which paragraph (4)(a) applies to that person which first falls after the relevant date determined in accordance with paragraph (7); and
 - (b) ending on the day before the date on which that person attains the age of 18 or the date on which paragraph (4)(a) ceases to apply to him, whichever first occurs.”;

(a) Section 115A was inserted by paragraph 3(1) of Schedule 3 to the Social Security (Northern Ireland) Order 1989

(e) in paragraph (6)—

- (i) in sub-paragraph (a) “on or” shall be omitted,
- (ii) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) ending on the last day of the period of 8 weeks beginning with the date specified in sub-paragraph (a) or on the day before the date on which that person attains the age of 18, whichever first occurs.”.

Amendment of regulation 21 of the principal regulations

6. In regulation 21(3) of the principal regulations (special cases), in the definition of “person from abroad”, in sub-paragraph (a) after “on 11th December 1953),” there shall be inserted “a state which is a signatory to the Council of Europe Social Charter (signed in Turin on 18th October 1961)(a),”.

Amendment of regulation 22 of the principal regulations

7. In regulation 22(5) of the principal regulations (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification) “(2) or” and “or a person to whom regulation 11(2) (exemption from requirement to register for employment) applies” shall be omitted.

Amendment of regulations 40 and 66A of the principal regulations

8. In regulations 40(3A) and 66A(1) of the principal regulations (calculation of income other than earnings and treatment of student loans) after “Education (Student Loans) (Northern Ireland) Order 1990” there shall be inserted in each of those regulations “or section 1 of the Education (Student Loans) Act 1990(b)”.

Amendment of Schedule 1 to the principal regulations

9. In Schedule 1 to the principal regulations (persons not required to be available for employment), in paragraph 7B—

(a) in sub-paragraph (1)—

- (i) in head (a) for “or paragraph 12 of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1990” there shall be substituted “, paragraph 12 of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1990(c) or paragraph 12 of Schedule 7 to the Students Awards (No. 2) Regulations (Northern Ireland) 1990(d)”.

(a) Cmnd. 2643

(b) 1990 c. 6

(c) S.R. 1990 No. 23; revoked by S.R. 1990 No. 427

(d) S.R. 1990 No. 427

(ii) after head (b) there shall be added the following—

“or

(c) a supplementary requirement has been determined under paragraph 15 of Schedule 2 to the Education (Mandatory Awards) Regulations 1987(a) or the Education (Mandatory Awards) Regulations 1988(b), paragraph 12 of Schedule 2 to the Education (Mandatory Awards) Regulations 1989(c) or paragraph 12 of Schedule 2 to the Education (Mandatory Awards) Regulations 1990(d), an allowance or, as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 6 of the Students' Allowances (Scotland) Regulations 1987(e) or, as the case may be, the Education Authority Bursaries (Scotland) Regulations 1988(f) in respect of expenses incurred, or a payment has been made under section 2 of the Education Act 1962(g).”;

(b) in sub-paragraph (2) for the words from “or any increase” to “paid to him” there shall be substituted “, payment, allowance or bursary”.

Amendment of Schedule 1A to the principal regulations

10. In Schedule 1A to the principal regulations (circumstances in which a person aged 16 or 17 is eligible for income support)—

(a) in paragraph 8 for “or the home” there shall be substituted “and which is other than the home”;

(b) in paragraph 9A for “or any person” there shall be substituted “and any person”; and in sub-paragraph (a) for “his parents or that person” there shall be substituted “his parents and that person”.

Amendment of Schedule 7 to the principal regulations

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

(a) in paragraph 15(b), head (ii) shall be omitted;

(b) in column (2), in paragraph 16(a)(iii) “either” shall be omitted.

Amendment of Schedule 9 to the principal regulations

12. In Schedule 9 to the principal regulations (sums to be disregarded in the calculation of income other than earnings), in paragraph 9 after “nursing home” there shall be inserted “and he is not a person to whom Part II of Schedule 4 applies (persons to whom regulation 19 does not apply)”.

(a) S.I. 1987/1261; revoked by S.I. 1988/1360
 (b) S.I. 1988/1360; revoked by S.I. 1989/1458
 (c) S.I. 1989/1458; revoked by S.I. 1990/1628
 (d) S.I. 1990/1628
 (e) S.I. 1987/864
 (f) S.I. 1988/1042
 (g) 1962 c. 12

Sealed with the Official Seal of the Department of Health and Social Services on 14th February 1991.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

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

- (a) they make certain minor amendments (regulations 2 and 3); remove any overlap or gap in the periods for which a person under 18 may be eligible for income support and for which child benefit is payable (regulation 5); provide for such a person, or a young person in relevant education, living away from his parents to be eligible for income support only if he is also living away from a person acting in place of his parents (regulations 4 and 10);
- (b) they extend the definition of a “person from abroad” to nationals of states who are signatories to the Council of Europe’s Social Charter (regulation 6);
- (c) they provide for a person’s applicable amount not to be reduced when an appeal on the question of his incapacity for work is pending (regulation 7);
- (d) they make provision for student loans granted in Great Britain to be treated as income, for the calculation of that income, and for deaf students in receipt of certain educational awards under that country’s legislation to be eligible for benefit (regulations 8 and 9);
- (e) they remove the restriction whereby a lone parent is excluded from receiving an amount in respect of a child who is a person from abroad (regulation 11);
- (f) they make provision for a person’s attendance allowance to be fully disregarded if he is in a home for persons in need or a nursing home and is ineligible for the higher amounts applicable to such homes (regulation 12).

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.