

1993 No. 438

HEALTH AND PERSONAL SOCIAL SERVICES**The Health and Personal Social Services (Assessment of Resources) (Amendment No. 2) Regulations (Northern Ireland) 1993**

Made 4th November 1993

Coming into operation 29th November 1993

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 36(6) and 99(5) of the Health and Personal Social Services (Northern Ireland) Order 1972(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 Health and Personal Social Services (Assessment of Resources) (Amendment No. 2) Regulations (Northern Ireland) 1993 and shall come into operation on 29th November 1993.

(2) In these regulations “the principal regulations” means the Health and Personal Social Services (Assessment of Resources) Regulations (Northern Ireland) 1993(b).

Amendment of regulation 2 of the principal regulations

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

(a) after the definition of “Board” there shall be inserted:

“ “child benefit” means child benefit under section 137 of the Contributions and Benefits Act;”;

(b) after the definition of “dwelling” there shall be inserted:

“ “Eileen Trust” has the same meaning as in the Income Support Regulations(c);”.

Amendment in relation to net profit of self-employed earners

3. In regulation 12(1) of the principal regulations (weekly amount of net profit of self-employed earners)—

(a) S.I. 1972/1265 (N.I. 14); Article 36 was substituted by Article 25 of S.I. 1991/194 (N.I. 1), and then amended by paragraph 2(4) and (5) of Schedule 1 to S.I. 1992/3204 (N.I. 20); and Article 99 was substituted by Article 27 of S.I. 1991/194 (N.I. 1)

(b) S.R. 1993 No. 127; as amended by S.R. 1993 No. 234

(c) See regulation 2(1) of the Income Support (General) Regulations (Northern Ireland) 1987. The relevant amending instrument is S.R. 1993 No. 233

- (a) in sub-paragraph (a) for the words “52 weeks” there shall be substituted the words “one year”; and
- (b) in sub-paragraph (b) the words “of weeks” shall be omitted.

Amendment in relation to income treated as capital

4.—(1) In regulation 22(4) of the principal regulations (income treated as capital), for the words “paragraph 1, 2, 5, 10 or 16 of” there shall be substituted the words “paragraph 1, 2, 5, 10, 16 or 18 of”.

(2) In regulation 22(7) of the principal regulations(a) (income treated as capital), after the words “the Fund,” there shall be inserted the words “the Eileen Trust,”.

Amendment of Schedule 2 to the principal regulations

5. In paragraph 3(2) of Schedule 2 to the principal regulations(b) (residents who qualify for the higher disregard in the calculation of earnings)—

- (a) in head (a) after the word “receives” there shall be inserted the words “an invalid care allowance or receives”; and
- (b) in head (b)(i), the words “an invalid care allowance” shall be omitted.

Amendment of Schedule 3 to the principal regulations

6.—(1) Schedule 3 to the principal regulations (sums to be disregarded in the calculation of income other than earnings) shall be amended in accordance with paragraphs (2) to (5).

(2) In paragraph 11 (amount of a certain war and other similar pensions to be disregarded), for the words “paragraph 31 of this Schedule” there shall be substituted the words “paragraph 30 of this Schedule” and after the words “of this Schedule” there shall be added the words “and as if the reference in paragraph 16(a) of Schedule 9 to the Income Support Regulations(c) to paragraphs 8 or 9 of Schedule 9 to the Income Support Regulations were a reference to paragraphs 5 or 6 of this Schedule”.

(3) In paragraph 14(2) (income derived from disregarded capital), for the words “paragraph 2 or 16” there shall be substituted the words “paragraph 2, 16 or 18”.

(4) In paragraph 27 (housing costs of a temporary resident to be disregarded), the words “, which are” shall be omitted.

(5) In Part I, after paragraph 27 there shall be inserted the following paragraph—

(a) Amended by regulation 6 of S.R. 1993 No. 234

(b) Amended by regulation 8(1) and (2) of S.R. 1993 No. 234

(c) The Income Support (General) Regulations (Northern Ireland) 1987. The relevant amending instrument is S.R. 1993 No. 373

“27A. Any child benefit, except in circumstances where a resident is accompanied by the child in respect of whom the child benefit is payable and accommodation is provided for that child under Article 15 or 36 of the Order.”

Revocation

7. Regulation 8(2) of the Health and Personal Social Services (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1993(a) is hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services on 4th November 1993.

(L.S.)

Hugh P. Simpson

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make further amendments to the Health and Personal Social Services (Assessment of Resources) Regulations (Northern Ireland) 1993 ("the principal regulations") which relate to the assessment by Health and Social Services Boards of the resources of residents in accommodation arranged under Article 15 and 36 of the Health and Personal Social Services (Northern Ireland) Order 1972.

Regulation 2 introduces two new definitions into regulation 2 of the principal regulations.

Regulation 3 makes minor amendments to regulation 12 of the principal regulations in relation to the periods by reference to which a resident's average weekly income from employment as a self-employed earner are to be determined.

Regulation 4 makes amendments to regulation 22 of the principal regulations. Income derived from certain premises occupied by a third party is no longer to be treated as capital (regulation 4(1)), and irregular payments made or due to be made by a new charitable trust known as the Eileen Trust are also not to be treated as capital (regulation 4(2)).

Regulation 5 amends paragraph 3 of Schedule 2 to the principal regulations so that all residents who receive invalid care allowance qualify for the higher disregard in any calculation of their earnings. There is a consequential revocation (regulation 7).

Regulation 6 makes various amendments to Schedule 3 of the principal regulations which deals with disregards of income. The amendments relate to the amount of certain war and other similar pensions to be disregarded (regulation 6(2)); income derived from certain premises occupied by a third party (regulation 6(3)); housing costs of a temporary resident (regulation 6(4)); and child benefit paid to a resident (regulation 6(5)). They also correct a drafting error in paragraph 11 (regulation 6(2)).

Regulation 7 revokes regulation 8(2) of the Health and Personal Social Services (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1993.