

1988 No. 660

SOCIAL SECURITY

**The Family Credit (General) Amendment Regulations
1988**

Made - - - - *30th March 1988*

Coming into force - *11th April 1988*

Whereas a draft of this instrument was laid before Parliament in accordance with section 83(3) of the Social Security Act 1986 and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Services, in exercise of powers conferred by sections 20(5A) and (12)(k), 21(6)(a), 22(8) and (9) and 84(1) of the Social Security Act 1986(a) and sections 166(1) to (3A) of the Social Security Act 1975(b) and of all other powers enabling him in that behalf, by this instrument which is made before the end of a period of 12 months from the commencement of the enactments under which it is made, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Family Credit (General) Amendment Regulations 1988 and shall come into force on 11th April 1988.

(2) In these Regulations “the General Regulations” means the Family Credit (General) Regulations 1987(c).

Amendment of regulation 2 of the General Regulations

2. In regulation 2(1) of the General Regulations (interpretation) there shall be inserted after the definition of “student” the following definition—

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

Amendment of regulation 9 of the General Regulations

3. In regulation 9 of the General Regulations (circumstances in which a person is to be treated as no longer a member of the same household)—

(a) 1986 c.50; section 20(5A) was inserted by section 3 of the Social Security Act 1988 (c.7) and section 84(1) is an interpretation provision and is cited because of the meanings assigned to the words “prescribed” and “regulations”.

(b) 1975 c.14; section 166(3A) is inserted by section 62 of the Social Security Act 1986 and section 166(1) to (3A) is applied by section 83(1) of that Act.

(c) S.I. 1987/1973.

- (a) in paragraph (2)–
 - (i) for the word “in-patient” where it first occurs there shall be substituted the word “patient” and, in sub-paragraph (a), for the words “an in-patient” there shall be substituted the words “a patient”;
 - (ii) for the words “in a prison or youth custody institution” where they first occur there shall be substituted the words “detained in custody”; and where, in sub-paragraph (c), they occur for a second time there shall be substituted the words “detained in custody whilst”;
- (b) after paragraph (2) there shall be added the following paragraph–

“(3) In this regulation “patient” has the same meaning as in regulation 8(3)(a) (membership of the same household).”.

Substitution of regulation 12 of the General Regulations

4. For regulation 12 of the General Regulations (disregard of fractions) there shall be substituted the following regulation–

“Rounding of fractions

12. 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 19 of the General Regulations

5. In regulation 19(1) of the General Regulations (earnings of employed earners) after sub-paragraph (g) there shall be added the following sub-paragraph–

“(h) any statutory sick pay under Part II of the Social Security (Northern Ireland) Order 1982(a) or statutory maternity pay under Part VI of the Social Security (Northern Ireland) Order 1986(b) where the claimant has been in receipt of either for a continuous period of 13 weeks or more.”.

Amendment of regulation 20 of the General Regulations

6. In regulation 20(4) of the General Regulations (calculation of net earnings of employed earners), for sub-paragraph (b) there shall be substituted the following sub-paragraph–

“(b) an amount in respect of primary Class 1 contributions under the Social Security Act equivalent to an amount calculated by applying to those earnings the appropriate primary percentage applicable at the date of claim;”.

Amendment of regulation 23 of the General Regulations

7. In regulation 23(2) of the General Regulations (deduction of tax and contributions for self-employed earners) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs–

“(a) the amount of Class 2 contributions payable under section 7(1) or, as the case may be, (4) of the Social Security Act(c) at the rate applicable at the date of claim except where a claimant’s chargeable income is less than the amount specified in section 7(5) of that Act(d) (small earnings exception) for the tax year in which the date of claim falls; but if the assessment period is less than a year, the amount specified for that tax year shall be calculated on a pro rata basis; and

(b) the amount of Class 4 contributions (if any) which would be payable under section 9(2) of that Act(e) (Class 4 contributions) at the percentage rate applicable at the date of claim on so much of the chargeable income as exceeds the lower limit but

(a) S.I. 1982/1084 (N.I. 16).

(b) S.I. 1986/1888 (N.I. 18).

(c) Section 7(1) was amended by section 2(4) of the Education (School-Leaving Dates) Act 1976 (c.5), section 17(1) of the Health and Social Security Act 1984 (c.48), article 3 of S.I. 1986/25 and article 3 of S.I. 1987/46.

(d) Section 7(5) was amended by article 3 of S.I. 1986/25 and 1987/46.

(e) Section 9 was amended by sections 4 and 65 of, and Schedule 5 to, the Social Security Pensions Act 1975 (c.60), section 1 of the Social Security Contributions Act 1982 (c.2) and S.I. 1986/25.

does not exceed the upper limit of profits and gains applicable for the tax year in which the date of claim falls; but, if the assessment period is less than a year, those limits shall be calculated on a pro rata basis.”.

Amendment of regulation 26 of the General Regulations

8. In regulation 26 of the General Regulations (notional income)–

- (a) in paragraph (3) after the words “payment of income” there shall be inserted the words “, other than a payment of income made under the Macfarlane Trust,”;
- (b) in paragraph (6) for sub-paragraph (b) there shall be substituted the following sub-paragraph–
 - “(b) an amount in respect of primary Class 1 contributions under the Social Security Act equivalent to an amount calculated by applying to those earnings the appropriate primary percentage applicable at the date of claim;”.

Amendment of regulation 34 of the General Regulations

9. In regulation 34 of the General Regulations (notional capital)–

- (a) in paragraph (3) after the words “payment of capital” there shall be inserted the words “, other than a payment of capital made under the Macfarlane Trust,”;
- (b) 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 38 of the General Regulations

10. In regulation 38 of the General Regulations (calculation of grant income)–

- (a) in paragraph (3) after the words “grant income” there shall be inserted the words “, except any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 1987(a) or intended for an older student under Part 4 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 commencing with the week in which the period of study begins.”.

Amendment of regulation 46 of the General Regulations

11. In regulation 46 of the General Regulations (determination of appropriate maximum family credit)–

- (a) in paragraph (1) for the words “paragraphs (2) to (6)” there shall be substituted the words “paragraphs (2) to (7)”;
- (b) after paragraph (6) there shall be added the following paragraph–
 - “(7) For the purposes of this regulation the amount of any credit and the age of any child or young person shall be determined by reference to the credit specified in Schedule 4 and the age of the child or young person at the date on which the period under section 20(6) of the Act (period of award) begins.”.

Amendment of regulation 47 of the General Regulations

12. In regulation 47 of the General Regulations (applicable amount of family credit) at the end there shall be added the following paragraph–

- “(2) For the purposes of section 20(5A) of the Act(b) (date on which applicable amount is to be determined) the prescribed date is the date on which the period under section 20(6) of the Act (period of the award) begins.”.

(a) S.I. 1987/1261.

(b) Subsection (5A) was inserted by section 3 of the Social Security Act 1988 (c.7).

Amendment of Schedule 2 to the General Regulations

13. In Schedule 2 to the General Regulations (sums to be disregarded in the calculation of income other than earnings)–

(a) for paragraph 11 there shall be substituted the following paragraph–

“11. In the case of a claimant participating in arrangements for training made under section 2 of the Employment and Training Act 1973(a) or attending a course at an employment rehabilitation centre established under that section–

(a) any travelling expenses reimbursed to the claimant;

(b) any living away from home allowance under section 2(2)(d) of that Act;

(c) any training premium,

but this paragraph, except insofar as it relates to a payment under subparagraph (a), (b) or (c), does not apply to any part of any allowance under section 2(2)(d) of that Act.”;

(b) after paragraph 30 there shall be added the following paragraphs–

“31. Any statutory sick pay under Part II of the Social Security (Northern Ireland) Order 1982 or statutory maternity pay under Part VI of the Social Security (Northern Ireland) Order 1986 where the claimant has not been in receipt of either for a continuous period of 13 weeks or more.

32. Any payment in respect of expenses to which regulation 19(2) (earnings of employed earners) applies.

33. 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 1987 (transitional provisions)(b).

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

Amendment of Schedule 3 to the General Regulations

14. In Schedule 3 to the General Regulations (capital to be disregarded) after paragraph 22 there shall be added the following paragraphs–

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

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

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

Signed by authority of the Secretary of State for Social Services.

30th March 1988

Michael Portillo
Parliamentary Under-Secretary of State,
Department of Health and Social Security.

(a) 1973 c.50; section 2 was amended by sections 9 and 11 of, Schedule 2, Part II, paragraph 9 and Schedule 3 to, the Employment and Training Act 1981 (c.57).

(b) S.I. 1987/1683.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Family Credit (General) Regulations 1987 with effect from 11 April 1988.

They amend Part IV to provide, in the calculation of income and capital, for the disregard of charitable payments made to haemophiliacs under the Macfarlane Trust and certain other payments (regulations 2, 8(a), 9(a), 13 and 14); for statutory sick pay and maternity pay under Northern Ireland legislation to be treated as earnings (regulation 5); for calculating social security contributions payable on earnings at the rates applying at the date of claim (regulations 6, 7 and 8(b)); and for apportioning student grants intended for maintenance of older students (regulation 10); and make certain other minor amendments to that Part (regulations 4 and 9(b)).

They also make provision for the maximum family credit to be determined by reference to the credits specified and the age of a child or young person at the date of the award (regulation 11); prescribe the date at the beginning of the award as the date on which the applicable amount is to be determined (regulation 12); and define "patient" for the purposes of determining whether a person is to be treated as a member of the household (regulation 3).

The 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 section 61(5) of the Social Security Act 1986, from reference to the Social Security Advisory Committee and have not been so referred.