

1987 No. 459

SOCIAL SECURITY**The Income Support (General) Regulations
(Northern Ireland) 1987***Made* 21st December 1987*Coming into operation* 11th April 1988

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The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by Articles 21(1), (3)(d), (4), (9), (11) and (12), 23(1), (4) and (5) to (9), 24(1), (3) and (5) and 52(1)(m) of the Social Security (Northern Ireland) Order 1986(a) and section 114 of the Social Security (Northern Ireland) Act 1975(b) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Income Support (General) Regulations (Northern Ireland) 1987 and shall come into operation on 11th April 1988.

Interpretation

2.—(1) In these regulations—

“the Order” means the Social Security (Northern Ireland) Order 1986;

“the 1971 Act” means the Immigration Act 1971(c);

“the 1972 Order” means the Health and Personal Social Services (Northern Ireland) Order 1972(d);

(a) S.I. 1986/1888 (N.I. 18); 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) 1975 c. 15; section 114 is applied by Article 53(3) of the Social Security (Northern Ireland) Order 1986

(c) 1971 c. 77

(d) S.I. 1972/1265 (N.I. 14)

“attendance allowance” means—

- (a) an attendance allowance under section 35 of the principal Act(a);
- (b) an increase of disablement pension under section 61 or 63 of that Act(b);
- (c) a payment under regulations made in exercise of the power conferred by section 150(3)(b) of that Act;
- (d) a payment analogous to a payment by way of an increase of an allowance in respect of constant attendance under section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975(c);
- (e) a payment by virtue of Article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(d) or any analogous payment; or
- (f) any payment based on need for attendance which is paid as part of a war disablement pension;

“benefit week” has the meaning prescribed in paragraph 4 of Schedule 7 to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(e);

“child” has the meaning assigned to it by Article 21(11) of the Order;

“child benefit” means child benefit under Part II of the Child Benefit (Northern Ireland) Order 1975(f);

“claimant” means a person claiming income support;

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple;

“concessionary payment” means a payment made under arrangements made by the Department with the consent of the Department of Finance and Personnel which is charged either to the Northern Ireland National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit under the Order, the principal Act or the Child Benefit (Northern Ireland) Order 1975 are charged;

“couple” means a married or an unmarried couple;

“course of study” means any full-time course of study or sandwich course whether or not a grant is made for attending it;

“dwelling occupied as the home” means the dwelling together with any garage, garden, small agricultural holding and outbuildings, normally occupied by the claimant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately;

“earnings” has the meaning prescribed in regulation 35 or, as the case may be, 37;

(a) Section 35 was amended by Article 3 of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) and paragraph 8 of Schedule 1 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8))

(b) Section 61 was amended by paragraph 6 of Schedule 3 to the Social Security (Northern Ireland) Order 1986

(c) 1975 c. 16

(d) S.I. 1983/686; the relevant amending instrument is S.I. 1984/1675

(e) S.R. 1987 No. 465

(f) S.I. 1975/1504 (N.I. 16)

- “education and library board” means a board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986(a);
- “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;
- “Health and Social Services Board” means a Board established under Article 16 of the 1972 Order;
- “home for persons in need” has the meaning prescribed in regulation 19(2);
- “housing association” has the meaning assigned to it by Article 114 of the Housing (Northern Ireland) Order 1981(b);
- “housing benefit expenditure” means expenditure of a kind for which housing benefit may be granted;
- “invalid carriage or other vehicle” means a vehicle propelled by petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;
- “liable relative” has the meaning prescribed in regulation 54;
- “lone parent” means a person who has no partner and who is responsible for, and a member of the same household as, a child or young person;
- “mobility allowance” means an allowance under section 37A of the principal Act(c);
- “mobility supplement” means any supplement under Article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(d) including such a supplement by virtue of any other scheme or order or under Article 25A of the Personal Injuries (Civilians) Scheme 1983(e);
- “net earnings” means such earnings as are calculated in accordance with regulation 36;
- “net profit” means such profit as is calculated in accordance with regulation 38;
- “non-dependant” has the meaning prescribed in regulation 3;
- “non-dependant deduction” means a deduction that is to be made under regulation 17(e) and paragraph 11 of Schedule 3;
- “nursing home” has the meaning prescribed in regulation 19(2);

(a) S.I. 1986/594 (N.I. 3)

(b) S.I. 1981/156 (N.I. 3); the definition of “housing association” was amended by Part I of Schedule 1 to the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (S.I. 1986/1035 (N.I. 9))

(c) Section 37A was inserted by Article 24(1) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) and amended by Article 4 of the Social Security (Northern Ireland) Order 1979 and Article 72 of the Social Security (Northern Ireland) Order 1986

(d) S.I. 1983/883; Article 26A was inserted by S.I. 1983/1116 and amended by S.I. 1983/1521 and S.I. 1986/592

(e) Article 25A was inserted by S.I. 1983/1164 and amended by S.I. 1983/1540 and S.I. 1986/628

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“partner” means where a claimant—

(a) is a member of a couple, the other member of that couple;

(b) is polygamously married to 2 or more members of his household, any such member;

“payment” includes a part of a payment;

“period of study” means—

(a) in the case of a course of study for one year or less, the period beginning with the start of the course to the end;

(b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, the period beginning with the start of the course or, as the case may be, that year’s start and ending with either—

(i) the day before the start of the next year of the course in a case where the student’s grant is assessed at a rate appropriate to his studying throughout the year, or, if he does not have a grant, where it would have been assessed at such a rate had he had one, or

(ii) in any other case the day before the start of the normal summer vacation appropriate to his course,

and for the purposes of this definition, any period of attendance at the educational establishment which is outside the period of the course shall be treated as part of the period of study;

“policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

“polygamous marriage” means any marriage where there is more than one spouse and the ceremony of marriage as between the spouses took place under the law of a country which permits polygamy;

“relative” means close relative, grandparent, grandchild, uncle, aunt, nephew or niece;

“relevant enactment” has the meaning prescribed in regulation 16(8)(a);

“remunerative work” has the meaning prescribed in regulation 5;

“residential accommodation” has the meaning prescribed in regulation 21(3);

“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);

“single claimant” means a claimant who neither has a partner nor is a lone parent;

“student” has the meaning prescribed in regulation 61;

“supplementary benefit” means a supplementary pension or allowance under Article 3 or 6 of the Supplementary Benefits (Northern Ireland) Order 1977(a);

“terminal date” in respect of a claimant means the terminal date in his case for the purposes of regulation 7 of the Child Benefit (General) Regulations (Northern Ireland) 1979(b);

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

(a) out of public funds by a government department or by or on behalf of the Department of Economic Development;

(b) to a person for his maintenance or in respect of a member of his family; and

(c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, a government department or approved by such department in relation to him or so provided or approved by or on behalf of the Department of Economic Development,

but it does not include an allowance paid by any government department to, or in respect of, a person by reason of the fact that he is following a course of full-time education or is training as a teacher;

“year of assessment” has the meaning prescribed in section 526(5) of the Income and Corporation Taxes Act 1970(c);

“young person” has the meaning prescribed in regulation 14.

(2) Any reference to the claimant’s family or, as the case may be, to a member of his family, shall be construed for the purposes of these regulations as if it included, in relation to a polygamous marriage, a reference to any partner and to any child or young person who is treated as the responsibility of the claimant or his partner, where that child or young person is a member of the claimant’s household.

(3) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Definition of non-dependant

3.—(1) In these regulations, “non-dependant” means any person, except someone to whom paragraph (2) applies, who normally resides with a claimant.

(2) This paragraph applies to—

(a) any member of the claimant’s family;

(a) S.I. 1977/2156 (N.I. 27); provisions of the Supplementary Benefits (Northern Ireland) Order 1977, as amended by Article 7 of, and Part I of Schedule 2 to, the Social Security (Northern Ireland) Order 1980, are set out in Part II of that Schedule. Articles 3 and 6 are repealed with effect from 11th April 1988 by Schedule 10 to the Social Security (Northern Ireland) Order 1986

(b) S.R. 1979 No. 5; the relevant amending regulations are S.R. 1980 No. 261, S.R. 1982 No. 114 and S.R. 1987 No. 130

(c) 1970 c. 10

(d) 1954 c. 33 (N.I.)

- (b) a child or young person who is living with the claimant but who is not a member of his household by virtue of regulation 16 (circumstances in which a person is to be treated as being or not being a member of the household);
- (c) a person who jointly occupies the claimant's dwelling;
- (d) subject to paragraph (3), any person who is liable to make payments in respect of his occupation of the dwelling to the claimant or the claimant's partner;
- (e) a person who lives with the claimant in order to care for him or a partner of his and who is engaged by a charitable or voluntary body (other than a Health and Social Services Board) which makes a charge to the claimant or his partner for the services provided by that person.

(3) A person, other than one to whom paragraph (2)(a) to (c) or (e) applies, who lives in board and lodging accommodation or a hostel within the meaning of regulation 20(2) (persons in board and lodging accommodation and hostels) shall be a non-dependant.

(4) For the purposes of this regulation a person resides with another only if they share any accommodation except a bathroom, a lavatory or a communal area.

(5) In this regulation "communal area" means any area (other than rooms) of common access (including halls and passageways) and rooms of common use in sheltered accommodation.

PART II

CONDITIONS OF ENTITLEMENT

Temporary absence from Northern Ireland

4.—(1) Where a claimant is entitled to income support for a period immediately preceding a period of temporary absence from Northern Ireland, his entitlement to income support shall continue during the first 4 weeks of that period of temporary absence only in the circumstances specified in paragraph (2).

(2) The circumstances in which a claimant's entitlement to income support is to continue during the first 4 weeks of a temporary absence from Northern Ireland are that—

- (a) the period of absence is unlikely to exceed 52 weeks;
- (b) while absent from Northern Ireland, the claimant continues to satisfy the other conditions of entitlement to income support; and
- (c) any one of the following conditions applies—
 - (i) the claimant is not required to be available for employment under regulation 8(1) and Schedule 1 other than paragraph 5, 10, 18, 19 or 20 of that Schedule (persons not required to be available for employment),
 - (ii) he is not required to be available for employment under regulation 8(1) and paragraph 5 of Schedule 1 (persons incapable of work)

and his absence from Northern Ireland is for the sole purpose of receiving treatment from an appropriately qualified person for the incapacity by reason of which he is not required to be so available,

- (iii) he is in Great Britain, or
- (iv) he is a member of a couple and he and his partner are both absent from Northern Ireland, and a premium referred to in paragraph 9, 10, 11 or 13 of Schedule 2 (applicable amounts) is applicable in respect of his partner.

Persons treated as engaged in remunerative work

5.—(1) Subject to paragraphs (2) to (5), for the purposes of Article 21(3)(c) of the Order (conditions of entitlement to income support), remunerative work is work in which a person is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 24 hours a week being work for which payment is made or which is done in expectation of payment.

(2) The number of hours for which a person is engaged in work shall be determined—

- (a) where no recognisable cycle has been established in respect of a person's work, by reference to the number of hours or, where those hours are likely to fluctuate, the average of the hours, which he is expected to work in a week;
- (b) where the number of hours for which he is engaged fluctuate, by reference to the average of hours worked over—
 - (i) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences),
 - (ii) in any other case, the period of 5 weeks immediately before the date of claim or the date of review, or such other length of time as may, in the particular case, enable the person's average hours of work to be determined more accurately.

(3) A person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(4) A person who makes a claim and to whom or to whose partner Article 24 of the Order (trade disputes) applies shall, for the period of 7 days following the date on which the stoppage of work due to a trade dispute at his or his partner's place of work commenced or, if there is no stoppage, the date on which he or his partner first withdrew his labour in furtherance of a trade dispute, be treated as engaged in remunerative work.

(5) A person who was, or was treated as being, engaged in remunerative work and in respect of that work earnings to which regulation 35(1)(b) to (d) (earnings of employed earners) applies are payable shall be treated as being engaged in remunerative work for the period for which those earnings are taken into account in accordance with Part V.

Persons not treated as engaged in remunerative work

6. A person shall not be treated as engaged in remunerative work if—
- (a) he is mentally or physically disabled and his earning capacity is, by reason of that disability, reduced to 75 per cent. or less of what he would, but for that disability, be reasonably expected to earn;
 - (b) he is engaged in child minding in his home;
 - (c) he is engaged by a charity or voluntary body or is a volunteer where the only payment received by him or due to be paid to him, is a payment which is to be disregarded under regulation 40(2) and paragraph 2 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings);
 - (d) he is engaged on a scheme for which a training allowance is being paid;
 - (e) subject to regulation 5(4) (persons treated as engaged in remunerative work) he is a person to whom Article 24 of the Order (trade disputes) applies; or
 - (f) he is a person who is not required to be available for employment because regulation 8 and paragraph 4 of Schedule 1 (person caring for another) apply to him.

Meaning of employment

7. For the purposes of Article 21(3)(d) of the Order (conditions of entitlement to income support) only work in employed earner's employment within the meaning of the principal Act—

- (a) which the claimant can reasonably be expected to do;
- (b) for which payment is made or which is done in expectation of payment; and
- (c) for which he would normally be engaged for not less than 24 hours a week or, if he is mentally or physically disabled, such lesser number of hours as, having regard to his disability, he is usually capable of working,

shall be treated as employment.

Persons not required to be available for employment

8.—(1) A person, other than one to whom regulation 10(1)(h) (circumstances in which claimants are not to be treated as available for employment) applies, to whom any paragraph of Schedule 1 (persons not required to be available for employment) applies in any week shall not be required to be available for employment in that week.

(2) A person, other than one to whom regulation 10(1)(h) applies, to whom none of the provisions of Schedule 1 other than paragraph 5 applies, shall, where—

- (a) a medical practitioner to whom the question of that person's incapacity for work by reason of some disease or bodily or mental disablement has been referred under regulation 8 of the Social Security (Adjudication) Regulations (Northern Ireland) 1987(a)

(a) S.R. 1987 No. 82, to which there are amendments not relevant to these regulations

(medical references) is of the opinion that the person is not so incapable;

- (b) that person's medical practitioner continues to supply evidence of his incapacity for work in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(a) (evidence of incapacity for work and confinement);
- (c) that person has made and is pursuing an appeal against the determination of an adjudication officer that he is not so incapable; and
- (d) that person, were he required to be available for employment, would not be treated as so available under regulation 9(1) (persons treated as available for employment),

not be required to be available for employment pending the determination of his appeal.

Persons treated as available for employment

9.—(1) Except in a case to which regulation 10 (circumstances in which claimants are not to be treated as available for employment) applies, a claimant shall be treated as available for employment if, and only if—

- (a) he is available to be employed, within the meaning of section 17(1)(a)(i) of the principal Act or regulations made under it (requirement to be available to be employed for the purposes of unemployment benefit), in employment to which regulation 7 (meaning of employment) applies;
- (b) he is normally engaged for less than the number of hours prescribed in paragraph (c) of regulation 7 in respect of him in employment to which that regulation applies, and he is available, within the meaning of section 17(1)(a)(i) of the principal Act or regulations made under it, for such further number of hours which would, in aggregate with the number of hours for which he is normally engaged, be not less than the number of hours prescribed in regulation 7(c) for his case; or
- (c) he satisfies the conditions in paragraph (2) and is attending—
 - (i) a course of education at an establishment recognised by the Department as being, or as comparable to, a school or college, or
 - (ii) a course of training or instruction analogous to a course for which a training allowance would be payable,

and, in either case, he is prepared to terminate the course immediately a suitable vacancy becomes available to him.

(2) The conditions referred to in paragraph (1)(c) are that either—

- (a) the claimant was, for a continuous period of not less than 3 months falling immediately before the commencement date—
 - (i) in receipt of a qualifying benefit, or
 - (ii) on a course of training or instruction organised by or on behalf of the Department of Economic Development as part of the Youth Training Programme; or

- (b) during the period of 6 months falling immediately before the commencement date the claimant was—
- (i) for a period, or periods in aggregate, of not less than 3 months in receipt of a qualifying benefit or on a course of training or instruction organised by or on behalf of the Department of Economic Development as part of the Youth Training Programme, and
 - (ii) after the period referred to in head (i) or, in the case of periods in aggregate, after the first such period and throughout the remainder of the 6 months for which that head did not apply to him, engaged in appropriate work,

and that the period of 3 months referred to in sub-paragraph (a) or, as the case may be, the period of 6 months referred to in sub-paragraph (b) fell wholly after the terminal date.

- (3) In this regulation—

“appropriate work” means remunerative work for the purpose of Article 21(3)(c) of the Order (conditions of entitlement to income support) or other work the emoluments from which are such as to disentitle the person engaged in it from a qualifying benefit;

“commencement date” means the date on which the claimant first attended the course of education or course of training or instruction;

“course” means a course in the pursuit of which the time spent receiving instruction or tuition, undertaking supervised study, examination or practical work or taking part in any exercise, experiment or project for which provision is made in the curriculum of the course does not, subject to paragraph (4), exceed 21 hours a week;

“qualifying benefit” means unemployment benefit or sickness benefit under the principal Act(a) or, in the case of a claimant who is required to be available for employment under Article 21(3)(d) of the Order or who is not so required under paragraph 5 of Schedule 1 (persons not required to be available by reason of same disease or bodily or mental disablement), income support.

(4) In calculating the time spent in pursuit of a course for the purpose of this regulation, no account shall be taken of time occupied by meal breaks or spent on unsupervised study, whether undertaken on or off the premises of the educational establishment or place of instruction or training.

Circumstances in which claimants are not to be treated as available for employment

10.—(1) A claimant shall not be treated as available for employment if he is a person to whom any one of the following sub-paragraphs applies—

(a) See sections 12(1)(a) and (b) and 14; section 12(1)(a) and (b) was amended by the Schedule to the Social Security (No. 2) (Northern Ireland) Order 1980 (S.I. 1980/1087 (N.I. 13)) and paragraph 1(a) of Schedule 3 to the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)); section 14 was amended by Article 20(1) of, and paragraph 21 of Schedule 5 to, the Social Security Pensions (Northern Ireland) Order 1975, paragraph 5 of Schedule 3 to the Social Security (Northern Ireland) Order 1979, the Schedule to the Social Security (No. 2) (Northern Ireland) Order 1980, Article 32(3) of, and paragraph 5 of Schedule 4 to, the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16)) and paragraph 53 of Schedule 9 to the Social Security (Northern Ireland) Order 1986

- (a) after a situation in any suitable employment has been properly notified to him as vacant or about to become vacant he has without good cause refused or failed to apply for that situation or refused to accept that situation when offered to him, and that situation is still vacant or open to application;
- (b) he has neglected to avail himself of a reasonable opportunity of suitable employment and that opportunity is still available to him;
- (c) he has failed to avail himself of a reasonable opportunity of short-term work which is available in the area in which he lives, and—
 - (i) he is aged 18 or over but under 45,
 - (ii) his partner, if any, is aged under 45,
 - (iii) there is no child or young person who is a member of his family,
 - (iv) his partner or, as the case may be, the claimant herself is not pregnant, and
 - (v) neither he nor his partner, if any, is mentally or physically disabled;
- (d) he has placed restrictions on the nature, hours, rate of remuneration or locality or other conditions of employment which he is prepared to accept and as a consequence of those restrictions he has no reasonable prospect of securing employment; but this sub-paragraph shall not apply where—
 - (i) he is prevented from having reasonable prospects of securing employment consistent with those restrictions only as a result of adverse industrial conditions in the locality or localities concerned which may reasonably be regarded as temporary, and, having regard to all the circumstances; personal and other, the restrictions which he imposes are reasonable,
 - (ii) the restrictions are nevertheless reasonable in view of his physical condition, or
 - (iii) the restrictions are nevertheless reasonable having regard both to the nature of his usual occupation and also to the time which has elapsed since he became unemployed;
- (e) having failed to comply with a written notice given or sent to him by or on behalf of the Department or the Department of Economic Development requesting him to report at a specified time, place and date to an officer of either of those departments for an interview in connection with his prospects of employment, he fails without good cause to comply with the requirements of a further notice given or sent to him within 14 days of the date specified in the first notice by or on behalf of the Department or, as the case may be, the Department of Economic Development and requesting him to report as aforesaid at a time, place and date specified in the further notice for the purpose of such an interview;
- (f) he has been disallowed unemployment benefit on the ground that he failed to claim in the manner prescribed by regulation 4 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(a) (making a claim for benefit) by virtue of the fact that the form

approved by the Department for the purpose of claiming was not duly completed so far as it related to his availability for employment;

- (g) he is a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations (Northern Ireland) 1975(a) who is not entitled to unemployment benefit under the principal Act because he has failed to satisfy the additional condition for receipt of that benefit in paragraph (5) or (8) of regulation 8 of those regulations (that he performed no work as a sea-going or on-shore share fisherman and that he has not neglected to avail himself of a reasonable opportunity of employment as a fisherman);
- (h) he is a student during the period of study other than one to whom paragraph 1, 2, 7 or 20 of Schedule 1 (persons not required to be available for employment) applies but in the case of paragraph 20 only where the student is a person to whom regulation 70(3)(a) (certain persons from abroad) applies.

(2) A determination that a claimant is not to be treated as available for employment—

- (a) under paragraph (1)(a), shall apply for a period not exceeding—
 - (i) the period during which the situation in question remains vacant, or
 - (ii) 13 weeks,
 whichever is the shorter;
- (b) under paragraph (1)(b), shall apply for a period not exceeding—
 - (i) the period during which the opportunity is still available to him, or
 - (ii) 13 weeks,
 whichever is the shorter;
- (c) under paragraph (1)(c)—
 - (i) shall not apply until the claimant has been given 14 days notice in writing and that period has expired, and then
 - (ii) shall apply for a period not exceeding the period during which the opportunity is still available to him or, if shorter, the period of 13 weeks;
- (d) under paragraph (1)(d), shall apply for so long as the claimant has no reasonable prospect of employment as a consequence of the restrictions referred to in that paragraph;
- (e) under paragraph (1)(e), shall apply on the day specified in the further notice and any subsequent day falling before the day on which the claimant reports to an officer of the Department or the Department of Economic Development at the place specified in the notice and there attends an interview in connection with his prospects of employment or before the day on which the Department or, as the case may be, the Department of Economic Development rescinds the further notice, whichever event first occurs;
- (f) under paragraph (1)(f), shall apply for so long as the claimant fails to claim in the manner referred to in that paragraph;

(a) S.R. 1975 No. 108, to which there are amendments not relevant to these regulations

- (g) under paragraph (1)(g) or (h), shall apply for so long as that paragraph continues to apply to him.
- (3) In this regulation—
- (a) employment shall not be deemed to be employment suitable in the case of any claimant if it is employment to which section 20(4) of the principal Act (employment not to be deemed suitable for purposes of that section) applies;
- (b) “properly notified” means notified by an officer acting on behalf of the Department, the Department of Economic Development, some other recognised agency or by or on behalf of an employer.

Registration for employment

11.—(1) Subject to paragraph (2), a claimant who—

(a) is aged less than 18; and

(b) is required to be available for employment for the purposes of Article 21(3)(d)(i) of the Order (conditions of entitlement to income support);

must also be registered for employment in accordance with paragraph (3).

(2) A claimant other than one to whom regulation 10(1)(h) (circumstances in which claimants are not to be treated as available for employment) applies and who would, but for this paragraph, be required to be registered for employment in accordance with paragraph (3), shall not be required so to register for employment if—

(a) a medical practitioner to whom the question of the claimant’s incapacity for work by reason of some disease or bodily or mental disablement has been referred under regulation 8 of the Social Security (Adjudication) Regulations (Northern Ireland) 1987 (medical references) is of the opinion that he is not so incapable;

(b) the claimant’s medical practitioner continues to supply evidence of his incapacity for work in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976 (evidence of incapacity for work and confinement); and

(c) the claimant has made and is pursuing an appeal against the determination of an adjudication officer that he is not so incapable.

(3) A claimant to whom paragraph (1) applies shall, except where the Department decides otherwise, be registered for employment by registering with the Department of Economic Development.

Relevant education

12. For the purposes of these regulations a child or young person is to be treated as receiving relevant education if, and only if—

(a) he is receiving full-time education not being advanced education for the purposes of Article 4 of the Child Benefit (Northern Ireland) Order 1975(a) (meaning of child); or

(b) although he is not receiving such full-time education he is treated as a child for the purposes of that Article,

(a) S.I. 1975/1504 (N.I. 16); Article 4 was amended by Article 5(5) of, and Schedule 4 to, the Social Security (Northern Ireland) Order 1980 and Article 71(1) of the Social Security (Northern Ireland) Order 1986

except that, in a case to which paragraph (b) applies, he shall not be treated as receiving relevant education beyond the terminal date in his case.

Circumstances in which persons in relevant education are to be entitled to income support

13.—(1) Notwithstanding that a person is to be treated as receiving relevant education under regulation 12 he shall, if paragraph (2) applies to him and he satisfies the other conditions of entitlement to income support, be entitled to income support.

(2) This paragraph applies to a young person who—

- (a) is the parent of a child for whom he is treated as responsible under regulation 15 (circumstances in which a person is to be treated as responsible or not responsible for another) and who is treated as a member of his household under regulation 16 (circumstances in which a person is to be treated as being or not being a member of the household);
- (b) is severely mentally or physically handicapped and because of that he would be unlikely, even if he were available for employment, to obtain employment within the next 12 months;
- (c) has no parent nor any person acting in the place of his parents;
- (d) is living away from and is estranged from his parents or any person acting in the place of his parents;
- (e) is living away from his parents and any person acting in the place of his parents in a case where his parents are or, as the case may be, that person is unable financially to support him and—
 - (i) chronically sick or mentally or physically disabled,
 - (ii) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court, or
 - (iii) prohibited from entering or re-entering Northern Ireland;
- (f) is attending a course of education to which regulation 9 (persons treated as available for employment) applies and satisfies the other conditions of that regulation;
- (g) has completed or terminated such a course and while attending that course satisfied the other conditions of that regulation; or
- (h) he is a person to whom paragraph 16 of Schedule 1 (refugees not required to be available for employment) applies.

(3) In this regulation—

- (a) any reference to a person acting in the place of a young person's parents includes—
 - (i) for the purposes of paragraph (2)(c) and (d), a reference to the Department or voluntary organisation where the young person is in their care under a relevant enactment, or to a person with whom the young person is boarded out by the Department or that voluntary organisation whether or not any payment is made by them, and
 - (ii) for the purposes of paragraph (2)(e), any person with whom the young person is so boarded out;

- (b) “chronically sick or mentally or physically disabled” means, in relation to a person to whom that expression refers, a person—
- (i) in respect of whom the condition specified in paragraph 12(1) of Schedule 2 (additional condition for the higher pensioner and disability premiums) is satisfied,
 - (ii) in respect of whom an amount under Article 26 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(a) (medical expenses) is payable in respect of the cost of providing a vehicle, or maintaining a vehicle to a disabled person, or
 - (iii) who is substantially and permanently disabled.

PART III

MEMBERSHIP OF THE FAMILY

Persons of a prescribed description

14.—(1) Subject to paragraph (2), a person of a prescribed description for the purposes of Article 21(11) of the Order as it applies to income support (definition of the family) and Article 24(1) and (3) of the Order (trade disputes) is a person aged 16 or over but under 19 who is treated as a child for the purposes of Article 4 of the Child Benefit (Northern Ireland) Order 1975 (meaning of child), and in these regulations such a person is referred to as a “young person”.

(2) Paragraph (1) shall not apply to a person who is entitled to income support or would, but for Article 21(9) of the Order (provision against dual entitlement of members of a family), be so entitled.

Circumstances in which a person is to be treated as responsible or not responsible for another

15.—(1) Subject to paragraphs (2) to (4), a person shall be treated as responsible for a child or young person for whom he has primary responsibility.

(2) Where a child or young person spends equal amounts of time in different households, or where there is a question as to who has primary responsibility for him, the child or young person shall be treated for the purposes of paragraph (1) as being the primary responsibility of—

- (a) the person who is receiving child benefit in respect of him; or
- (b) if there is no such person—
 - (i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or
 - (ii) in any other case the person who in the opinion of the adjudication officer has the primary responsibility for him.

(3) Where regulation 16(6) (circumstances in which a person is to be treated as being or not being a member of the household) applies in respect of a child or young person, that child or young person shall be treated as the responsibility of the claimant for that part of the week for which he is under that regulation treated as being a member of the claimant’s household.

(4) Except where paragraph (3) applies, for the purposes of these regulations a child or young person shall be treated as the responsibility of only one person in any benefit week and any person other than the one treated as responsible for the child or young person under this regulation shall be treated as not so responsible.

Circumstances in which a person is to be treated as being or not being a member of the household

16.—(1) Subject to paragraphs (2) to (5), the claimant and any partner and, where the claimant or his partner is treated as responsible under regulation 15 (circumstances in which a person is to be treated as responsible or not responsible for another) for a child or young person, that child or young person and any child of that child or young person shall be treated as members of the same household where any of them is absent from the dwelling occupied as his home.

(2) Paragraph (1) shall not apply in respect of any person referred to therein who is not treated as occupying a dwelling as his home because he fails to satisfy the conditions in paragraph 4(8) of Schedule 3 (housing costs).

(3) Paragraph (1) shall not apply in respect of any member of a couple or of a polygamous marriage where—

(a) one, both or all of them are patients detained in accommodation provided under Article 110 of the Mental Health (Northern Ireland) Order 1986(a);

(b) one, both or all of them are detained in custody pending trial or sentence upon conviction or whilst serving a sentence imposed by a court;

(c) one of them is in accommodation and, if the accommodation is accommodation provided under the provisions referred to in paragraph (a) of the definition of residential accommodation in regulation 21(3) (special cases), the couple, or as the case may be, the members of the polygamous marriage are not entitled to income support and they have insufficient income to meet the minimum charge for that accommodation;

(d) the claimant is abroad and does not satisfy the conditions of regulation 4 (temporary absence from Northern Ireland); or

(e) one of them is permanently in residential accommodation, a home for persons in need or a nursing home.

(4) A child or young person shall not be treated as a member of the claimant's household where he is—

(a) boarded out with the claimant or his partner under a relevant enactment;

(b) boarded out with the claimant or his partner prior to adoption; or

(c) placed for adoption with the claimant or his partner pursuant to a decision under the Adoption Societies Regulations (Northern Ireland) 1969(b).

(a) S.I. 1986/595 (N.I. 4)

(b) S.R. & O. (N.I.) 1969 No. 303

(5) Subject to paragraph (6), paragraph (1) shall not apply to a child or young person who is not living with the claimant and who—

(a) has been continuously absent from Northern Ireland for a period of more than 4 weeks commencing—

(i) where he went abroad before the date of claim for income support, with that date,

(ii) in any other case, with the date on which he went abroad;

(b) has been an in-patient or in residential accommodation for a continuous period of more than 12 weeks commencing—

(i) where he became an in-patient or, as the case may be, entered that accommodation before the date of the claim for income support, with that date, or

(ii) in any other case, with the date on which he became an in-patient or entered that accommodation,

and, in either case, has not been in regular contact with either the claimant or any member of the claimant's household;

(c) is in the care of the Department under a relevant enactment;

(d) has been boarded out with a person other than the claimant prior to adoption;

(e) has been placed for adoption pursuant to a decision under the Adoption Societies Regulations (Northern Ireland) 1969; or

(f) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court.

(6) A child or young person to whom any of the circumstances mentioned in paragraph (5)(c) or (f) applies shall be treated as being a member of the claimant's household only for that part of any benefit week where that child or young person lives with the claimant.

(7) Where a child or young person for the purposes of attending the educational establishment at which he is receiving relevant education is living with the claimant or his partner and neither one is treated as responsible for that child or young person that child or young person shall be treated as being a member of the household of the person treated as responsible for him and shall not be treated as a member of the claimant's household.

(8) In this regulation "relevant enactment" means the Guardianship of Infants Act 1886(a), the Army Act 1955(b), the Air Force Act 1955(c), the Naval Discipline Act 1957(d), the Adoption Act (Northern Ireland) 1967(e), the Children and Young Persons Act (Northern Ireland) 1968(f), the 1972 Order, the Family Law Reform (Northern Ireland) Order 1977(g), the Matrimonial Causes (Northern Ireland) Order 1978(h) and the Domestic Proceedings (Northern Ireland) Order 1980(i).

(a) 1886 c. 27

(b) 1955 c. 18

(c) 1955 c. 19

(d) 1957 c. 53

(e) 1967 c. 35 (N.I.)

(f) 1968 c. 34 (N.I.)

(g) S.I. 1977/1250 (N.I. 17)

(h) S.I. 1978/1045 (N.I. 15)

(i) S.I. 1980/563 (N.I. 5)

PART IV

APPLICABLE AMOUNTS

Applicable amounts

17. Subject to regulations 18 to 22 and 70 (applicable amounts in other cases and reductions in applicable amounts and urgent cases), a claimant's weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case—

- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1(1), (2) or (3), as the case may be, of Schedule 2 (personal allowances);
- (b) an amount determined in accordance with paragraph 2 of Schedule 2 in respect of any child or young person who is a member of his family, except a child or young person whose capital, if calculated in accordance with Part V (income and capital) in like manner as for the claimant, except where otherwise provided, would exceed £3,000;
- (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part II of Schedule 2 (family premium);
- (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts III and IV of Schedule 2 (premiums);
- (e) any amounts determined in accordance with Schedule 3 (housing costs) which may be applicable to him in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule.

Polygamous marriages

18. Subject to regulations 19 to 22 and 70 (applicable amounts in other cases and reductions in applicable amounts and urgent cases), where a claimant is a member of a polygamous marriage his weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case—

- (a) the highest amount applicable to him and one of his partners determined in accordance with paragraph 1(3) of Schedule 2 (personal allowances) as if he and that partner were a couple;
- (b) an amount equal to the difference between the amounts specified in paragraph 1(3)(b) and (1)(c) of Schedule 2 in respect of each of his other partners;
- (c) an amount determined in accordance with paragraph 2 of Schedule 2 in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household except a child or young person whose capital, if calculated in accordance with Part V (income and capital) in like manner as for the claimant, except where otherwise provided, would exceed £3,000;

- (d) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part II of Schedule 2 (family premiums);
- (e) the amount of any premiums which may be applicable to him determined in accordance with Parts III and IV of Schedule 2 (premiums);
- (f) any amounts determined in accordance with Schedule 3 (housing costs) which may be applicable to him in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule.

Persons in homes for persons in need and nursing homes

19.—(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 he is a member of a family—
 - (i) he and the members of his family live in such a home, or
 - (ii) he and the members of his family normally live in such a home and, where there is a period of temporary absence from the home of any member of the family, provided that the claimant or his partner lives in the home during that absence,

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.

(2) In this regulation and Schedule 4—

“nursing home” means—

- (a) any premises registered under Part I of the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971(a); or
- (b) any premises used for the reception of such persons or the provision of such nursing or services as is mentioned in section 10 of the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971 and which are maintained or controlled by any body of persons constituted by special Act of Parliament or incorporated by Royal Charter;

“home for persons in need” means an establishment which provides residential accommodation with both board and personal care for persons in need of personal care by reason of age and infirmity, past or present mental disorder, past or present dependence on alcohol or drugs, mental handicap or physical disability and which is—

- (a) registered under Article 35 of, and Schedule 5 to, the 1972 Order;

(a) 1971 c. 32 (N.I.); Part I was amended by Schedules 16 and 18 to the Health and Personal Social Services (Northern Ireland) Order 1972, Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1978 (S.I. 1978/1907 (N.I. 26)), Schedules 7 and 8 to the Nurses, Midwives and Health Visitors Act 1979 (c. 36), Articles 3 and 4 of the Nursing Homes and Nursing Agencies (Northern Ireland) Order 1985 (S.I. 1985/1775 (N.I. 19)) and Part II of Schedule 5 to the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4))

- (b) run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society; or
- (c) managed or provided by a body incorporated by Royal Charter or constituted by special Act of Parliament.

“temporary absence” means—

- (a) in the case of a person who is over pensionable age, 52 weeks;
- (b) in any other case, 13 weeks.

(3) In Schedule 4 the expressions “age and infirmity”, “mental disorder”, “mental handicap”, “drug or alcohol dependence” and “disablement” have the same meanings as those expressions have for the purposes of the 1972 Order and regulations made thereunder.

Persons in board and lodging accommodation and hostels

20.—(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 he is a member of a family—
 - (i) he and the members of his family live in such accommodation, or
 - (ii) he and the members of his family normally live in such accommodation and, where there is a period of absence from the accommodation of any member of the family, provided that the claimant or his partner lives in the accommodation during that absence,

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.

(2) In this regulation and Schedule 5—

“board and lodging accommodation” means—

- (a) accommodation provided to the claimant or, if he is a member of a family, to him or any other members of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which are both prepared and consumed in that accommodation or associated premises; or
- (b) accommodation provided in a hotel, guest-house, lodging-house or some similar establishment;

“board and lodging area” means anyone of the 14 areas in which the accommodation provided for the claimant is situated as specified in column (1) of Schedule 6 (board and lodging areas) comprising the social security office areas specified in column (2) thereof and described in the publication entitled “Supplementary Benefit Board and Lodging Areas in Northern Ireland” published by Her Majesty’s Stationery Office in 1986(a) and any place which is not included in the description of a board and lodging area in the said publication shall be treated for the purposes of this regulation and Schedule 5 as forming part of the board and lodging area nearest to it;

“hostel” means an establishment not being a home for persons in need or a nursing home—

- (a) in which there is provided for persons generally or for a class of persons, residential accommodation, otherwise than in separate and self-contained premises, and either board or facilities for the preparation of food adequate to the needs of those persons, or both; and—
- (b) which is—
 - (i) managed by a housing association registered with the Department of the Environment for Northern Ireland in accordance with Article 124 of the Housing (Northern Ireland) Order 1981(a),
 - (ii) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by the Department, any other government department or agency,
 - (iii) managed by a voluntary body or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community, or
 - (iv) for the purposes of any particular case, such other establishment of like nature as the Department may, in its discretion, determine.

Special cases

21.—(1) Subject to regulation 22 (reductions in applicable amounts) in the case of a person to whom any paragraph in column (1) of Schedule 7 (applicable amounts in special cases) applies, the amount included in the claimant's weekly amount in respect of him shall be the amount prescribed in the corresponding paragraph in column (2) of that Schedule; but no amount shall be included in respect of a child or young person if the capital of that child or young person calculated in accordance with Part V in like manner as for the claimant, except where otherwise provided, would exceed £3,000.

(2) In Schedule 7, for the purposes of paragraph 1, 2, 3 or 16 (patients), where a person has been a patient for 2 or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.

(3) In Schedule 7—

“person from abroad” means a person, who—

- (a) has a limited leave as defined in section 33(1) of the 1971 Act(b) to enter or remain in the United Kingdom which was given in accordance with any provision of the immigration rules (as defined in that section) which refers to there being, or to there needing to be, no recourse to public funds or to there being no charge on public funds during that limited leave; but this sub-paragraph shall not apply to a person who is a national of a member State, a state which is a signatory to the

(a) S.I. 1981/156 (N.I. 3)

(b) Section 33(1) as amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4

- European Convention on Social and Medical Assistance (done in Paris on 11th December 1953)(a), the Channel Islands or the Isle of Man;
- (b) having a limited leave (as defined in section 33(1) of the 1971 Act) to enter or remain in the United Kingdom, has remained without further leave under that Act beyond the time limited by the leave;
- (c) is the subject of a deportation order being an order under section 5(1) of that Act (deportation) requiring him to leave and prohibiting him from entering the United Kingdom;
- (d) is adjudged by the immigration authorities to be an illegal entrant (as defined in section 33(1) of that Act) who has not subsequently been given leave under that Act to enter or remain in the United Kingdom;
- (e) has been allowed temporary admission to the United Kingdom by virtue of paragraph 21 of Schedule 2 to that Act;
- (f) has been allowed temporary admission to the United Kingdom by the Secretary of State outside any provision of that Act; or
- (g) has not had his immigration status determined by the Secretary of State;

“patient” means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(b);

“prisoner” means a person who is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court other than a person whose detention is under the provisions of the Mental Health (Northern Ireland) Order 1986(c);

“residential accommodation” means, subject to paragraph (4), accommodation for a person whose stay in the accommodation has become other than temporary which is accommodation provided—

- (a) under Article 15 or 36 of the 1972 Order(d) other than—
- (i) such accommodation where full board is not available to the person, or
 - (ii) accommodation in premises registered under Article 35 of, and Schedule 5 to, that Order (registration of homes for persons in need) where the premises are used for the rehabilitation of alcoholics or drug addicts, or
 - (iii) a hostel within the meaning of regulation 20(2) (persons in board and lodging accommodation and hostels); or
- (b) under Article 7 or 8 of the 1972 Order (prevention of illness, care and after-care and care of mothers and young children) by the Department other than—

(a) Cmnd. 9512

(b) S.R. 1975 No. 109; the relevant amending regulations are S.R. 1987 No. 391

(c) S.I. 1986/595 (N.I. 4)

(d) Article 15 was extended by Article 11(1) of the Health and Personal Social Services (Northern Ireland) Order 1978 (S.I. 1978/1907 (N.I. 26)) and sections 1 and 2 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 53) and Article 36 was amended by Article 11(2) of the said Order

- (i) such accommodation where full board is not available to the person,
- (ii) accommodation provided under the said Article 7 which is registered under Article 35 of, and Schedule 5 to, the 1972 Order (registration of homes for persons in need) where the premises are used for the rehabilitation of alcoholics or drug addicts, or
- (iii) a hostel within the meaning of regulation 20(2) (persons in board and lodging accommodation and hostels).

(4) A person who would, but for this paragraph, be in residential accommodation within the meaning of paragraph (3) shall not be treated as being in residential accommodation if he is a person who is staying in a home for persons in need as defined in regulation 19(2) (persons in homes for persons in need and nursing homes) under the provisions referred to in sub-paragraph (b) of the definition of "residential accommodation" in paragraph (3) where—

- (a) the weekly cost of such accommodation exceeds the maximum amount provided for under regulation 19 and paragraphs 6, 8, 9 and 10 of Schedule 4 (applicable amounts of persons in homes for persons in need and nursing homes) in respect of such accommodation; and
- (b) the Department accepts responsibility for the making of arrangements for the provision of such accommodation for that person in the light of that person being entitled to such maximum amount as a person in a home for persons in need under and by virtue of that regulation, provided that in the case of a person over pensionable age the Department had accepted such responsibility for a period of not less than 2 years immediately before that person attained pensionable age.

(5) A claimant to whom paragraph 17 of Schedule 7 (disability premium) applies shall be entitled to income support for the period in respect of which that paragraph applies to him notwithstanding that his partner was also entitled to income support for that same period.

Reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification

22.—(1) The weekly applicable amount of a claimant to whom paragraph (4) or (5) applies shall, subject to paragraph (2), be reduced by a sum equal to 40 per cent. of the following amount (hereinafter referred to as the "relevant amount")—

- (a) in the case of a person to whom regulation 17 or 18 (applicable amounts or polygamous marriages) or paragraph 4, 5, 6, 9, 10, 11, 12, 14 or 15(c)(i) or (d)(i) of Schedule 7 (applicable amounts in special cases) applies—
 - (i) where he is a single claimant aged less than 18 or a member of a couple or a polygamous marriage where all the members, in either case, are less than 18, the amount specified in Column (2) of paragraph 1(1)(a) of Schedule 2 (applicable amounts),
 - (ii) where he is a single claimant aged not less than 18 but less than 25, the amount specified in Column (2) of paragraph 1(1)(b) of that Schedule,

- (iii) where he is a single claimant aged not less than 25 or a member of a couple or a polygamous marriage at least one of whom is aged not less than 18, the amount specified in Column (2) of paragraph 1(1)(c) of that Schedule;
 - (b) in the case of a person to whom regulation 19 or 20 (persons in homes for persons in need and nursing homes or board and lodging accommodation and hostels) applies, the amount allowed for personal expenses for him specified in paragraph 12 of Schedule 4 or, as the case may be, paragraph 11(b) of Schedule 5.
- (2) Where—
- (a) the claimant's capital calculated in accordance with Part V (including any capital treated as his) does not exceed £200; and
 - (b) the claimant or, if the claimant is a member of a family, any member of the family is either pregnant or seriously ill,
- his weekly applicable amount shall be reduced by a sum equal to 20 per cent. of the relevant amount in his case.
- (3) A reduction under paragraph (1) or (2) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.
- (4) This paragraph applies to a claimant—
- (a) whose weekly applicable amount is calculated otherwise than in accordance with regulation 21 (special cases) and paragraph 1, 2, 3, 8(b), 13, 14 or 16 of Schedule 7;
 - (b) whose right to income support is, under Article 21(3)(d)(i) of the Order (conditions of entitlement to income support), subject to the condition of availability for employment; and
 - (c) who—
 - (i) is disqualified for receiving unemployment benefit under section 20(1) of the principal Act(a) (disqualifications etc.),
 - (ii) has made a claim for unemployment benefit which has not been determined by an adjudication officer and in respect of which, in the opinion of an adjudication officer, a question as to disqualification under that section arises, or
 - (iii) has not made a claim for unemployment benefit or has had such a claim disallowed other than by reason of section 20(1) and, in either case, would be so disqualified if he were to make such a claim or it had not been so disallowed.
- (5) This paragraph applies to a claimant who is not required to be available for employment by virtue of regulation 8(2) (persons not required to be available for employment) or a person to whom regulation 11(2) (exemption from requirement to register for employment) applies.
- (6) This regulation shall apply—
- (a) in a case to which head (i) of paragraph (4)(c) applies, for the period of the disqualification;

(a) Subsection (1) was amended by Article 44(2)(a) of the Social Security (Northern Ireland) Order 1986 and subsection (1A) was inserted by Article 44(3)(a) of that Order

- (b) in a case to which head (ii) of paragraph (4)(c) applies, for a period of 13 weeks except that where, on subsequent determination of the claim for unemployment benefit—
- (i) disqualification is not imposed, any reduction imposed under paragraph (1) or (2), as the case may be, shall be withdrawn,
 - (ii) disqualification is imposed but for a period of less than 13 weeks, the period of such reduction shall be adjusted to correspond with the period of disqualification;
- (c) in a case to which head (iii) of paragraph (4)(c) applies, for the period for which the claimant would be disqualified if he were to make a claim for unemployment benefit or if such a claim had not been disallowed for other reasons;
- (d) in a case to which paragraph (5) applies, for so long as that paragraph continues so to apply.

PART V

INCOME AND CAPITAL

CHAPTER I

GENERAL

Calculation of income and capital of members of claimant's family and of a polygamous marriage

23.—(1) The income and capital of a claimant's partner and, subject to paragraph (2) and to regulation 44 (modifications in respect of children and young persons), the income of a child or young person which by virtue of Article 23(5) of the Order is to be treated as income and capital of the claimant, shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant; and any reference to the "claimant" shall be construed, for the purposes of this Part, as if it were a reference to his partner or that child or young person.

(2) Regulations 36(2) and 38(2), so far as they relate to paragraphs 1 to 10 of Schedule 8 (earnings to be disregarded) and regulation 41(1) (capital treated as income) shall not apply to a child or young person.

(3) Where a claimant or the partner of a claimant is married polygamously to 2 or more members of his household—

- (a) the claimant shall be treated as possessing income and capital belonging to each such member and the income of any child or young person who is one of that member's family; and
- (b) the income and capital of that member or, as the case may be, the income of that child or young person shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant or, as the case may be, as for any child or young person who is a member of his family.

Treatment of charitable or voluntary payments

24.—(1) Subject to paragraph (5), any charitable or voluntary payment, other than one which is or is due to be made at regular intervals or is one to which regulation 44(2) (modifications in respect of children and young persons) applies, made to the claimant on or after the date of claim shall be calculated in accordance with paragraphs (2) to (5); and for the purposes of this regulation any such payment made to a member of the claimant's family or to a person whose income and capital he is treated as possessing under regulation 23(3) shall be treated as a payment made to the claimant and shall be disregarded in calculating the income or capital of that member or that person.

(2) The first £250, whether in aggregate or otherwise, of any such payments made in the period of 52 weeks beginning with the first day of the benefit week in which the first payment is made shall be taken into account under Chapter VI of this Part as capital and to the extent that it is not a payment of capital shall be treated as capital.

(3) Any such payments in the said period of 52 weeks in excess of £250 shall be taken into account under Chapter V of this Part as income and to the extent that it is not a payment of income shall be treated as income.

(4) In the case of a claimant who continues to be in receipt of income support at the end of the said period of 52 weeks, paragraphs (1) to (3) shall continue to apply thereafter with the modification that any subsequent period of 52 weeks shall begin with the first day of the benefit week in which the first payment is made after the end of the previous period of 52 weeks.

(5) This regulation shall not apply to a person to whom Article 24 of the Order (trade disputes) applies or to a member of his family for so long as that Article applies to that person.

Liable relative payments

25. Regulations 29 to 44, 46 to 52 and Chapter VIII of this Part shall not apply to any payment which is to be calculated in accordance with Chapter VII thereof (liable relatives).

Calculation of income and capital of students

26. The provisions of Chapters II to VI of this Part (income and capital) shall have effect in relation to students and their partners subject to the modifications set out in Chapter VIII thereof (students).

Disregard of fractions

27. Where any income or capital calculated in accordance with this Part includes a fraction of a penny that fraction shall be disregarded.

CHAPTER II

INCOME

Calculation of income

28.—(1) For the purposes of Article 21(3) of the Order (conditions of

entitlement to income support), the income of a claimant shall be calculated on a weekly basis—

- (a) by determining in accordance with this Part, other than Chapter VI (capital), the weekly amount of his income; and
- (b) by adding to that amount the weekly income calculated under regulation 53 (calculation of tariff income from capital).

(2) For the purposes of paragraph (1) “income” includes income derived under regulations 24 and 41 to 43 (treatment of charitable or voluntary payments, capital treated as income, notional income and notional earnings of seasonal workers).

Calculation of earnings derived from employed earner's employment and income other than earnings

29.—(1) Except where regulation 33 (weekly amount of charitable or voluntary payment) applies, earnings derived from employment as an employed earner and income which does not consist of earnings shall be taken into account over a period determined in accordance with paragraphs (2) to (5) and at a weekly amount determined in accordance with regulation 32 (calculation of weekly amount of income).

(2) Subject to paragraph (3), the period over which a payment is to be taken into account shall be—

- (a) in a case where it is payable in respect of a period, a period equal to the length of that period;
- (b) in any other case, a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the net earnings, or in the case of income which does not consist of earnings, the amount of that income by the amount of income support which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from that payment under Schedule 8 or, as the case may be, 9 (earnings and other income to be disregarded) as is appropriate in the claimant's case,

and that period shall begin on the date on which the payment is treated as paid under regulation 31 (date on which income is treated as paid).

(3) Where earnings not of the same kind are derived from the same source and the periods in respect of which those earnings would, but for this paragraph, fall to be taken into account—

- (a) overlap, wholly or partly, those earnings shall be taken into account over a period equal to the aggregate length of those periods;
- (b) and that period shall begin with the earliest date on which any part of those earnings would otherwise be treated as paid under regulation 31.

(4) In a case to which paragraph (3) applies, any payment to which regulation 35(1)(b) or (c) (earnings of employed earners) applies shall be taken into account before a payment to which regulation 35(1)(d) applies but after any earnings normally derived from the employment.

(5) For the purposes of this regulation the claimant's earnings and income which does not consist of earnings shall be calculated in accordance with Chapters III and V (employed earners and other income) respectively of this Part.

Calculation of earnings of self-employed earners

30.—(1) Except where paragraph (2) applies, where a claimant's income consists of earnings from employment as a self-employed earner the weekly amount of his earnings shall be determined by reference to his average weekly earnings from that employment—

- (a) over a period of 52 weeks; or
- (b) where the claimant has recently become engaged in that employment or there has been a change which is likely to affect the normal pattern of business, over such other period of weeks as may, in any particular case, enable the weekly amount of his earnings to be determined more accurately.

(2) Where the claimant's earnings consist of royalties or sums paid periodically for or in respect of any copyright those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the earnings by the amount of income support which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 8 (earnings to be disregarded) as is appropriate in the claimant's case.

(3) For the purposes of this regulation, the claimant's earnings shall be calculated in accordance with Chapter IV (self-employed earners) of this Part.

Date on which income is treated as paid

31.—(1) Except where paragraph (2) applies, a payment of income to which regulation 29 (calculation of earnings derived from employed earner's employment and income other than earnings) applies shall be treated as paid—

- (a) in the case of a payment which is due to be paid before the first benefit week pursuant to the claim, on the date on which it is due to be paid;
- (b) in any other case, on the first day of the benefit week in which it is due to be paid or the first succeeding benefit week in which it is practicable to take it into account.

(2) Income support, unemployment benefit, sickness or invalidity benefit, or severe disablement allowance under the principal Act(a) shall be treated as paid on the day of the benefit week in respect of which it is paid.

(a) See sections 12(1)(a) to (c), 14 to 16 and 36; section 12(1)(a) and (b) was amended by the Schedule to the Social Security (No. 2) (Northern Ireland) Order 1980 (S.I. 1980/1087 (N.I. 13)) and paragraph 1(a) of Schedule 3 to the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)); section 14 was amended by Article 20(1) of, and paragraph 21 of Schedule 5 to, the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)), paragraph 5 of Schedule 3 to the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)), the Schedule to the Social Security (No. 2) (Northern Ireland) Order 1980, Article 32(3) of, and paragraph 5 of Schedule 4 to, the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16)) and paragraph 53 of Schedule 9 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)); section 15 was amended by paragraph 22 of Schedule 5 to the Social Security Pensions (Northern Ireland) Order 1975, paragraph 1 of Schedule 1 to, and paragraph 6 of Schedule 3 to, the Social Security (Northern Ireland) Order 1979, paragraph 6 of Schedule 4 to the Social Security (Northern Ireland) Order 1982 and paragraph 53 of Schedule 9 to the Social Security (Northern Ireland) Order 1986; section 15A was inserted by Article 18(3) of the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)); section 16 was amended by paragraph 10 of Schedule 1 to the Social Security (Northern Ireland) Order 1979 and Article 11(1) of the Social Security (Northern Ireland) Order 1985 and modified for certain purposes by Article 6 of the Social Security (Northern Ireland) Order 1986; section 36 was substituted by Article 5(1) of the Health and Social Security (Northern Ireland) Order 1984 and amended by paragraph 2 of Schedule 4 to the Social Security (Northern Ireland) Order 1985

Calculation of weekly amount of income

32.—(1) For the purposes of regulation 29 (calculation of earnings derived from employed earner's employment and income other than earnings), subject to paragraphs (2) to (5) and regulation 34 (incomplete benefit weeks), where the period in respect of which a payment is made—

- (a) does not exceed a week, the weekly amount shall be the amount of that payment;
- (b) exceeds a week, the weekly amount shall be determined—
 - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52,
 - (ii) in a case where the period is 3 months, by multiplying the amount of the payment by 4 and dividing the product by 52,
 - (iii) in a case where that period is a year, by dividing the amount of the payment by 52,
 - (iv) in any other case, by multiplying the amount of the payment by 7 and dividing the product by the number equal to the number of days in the period in respect of which it is made.

(2) Where a payment for a period not exceeding a week is treated under regulation 31(1)(a) (date on which income is treated as paid) as paid before the first benefit week and a part is to be taken into account for some days only in that week (the relevant days), the amount to be taken into account for the relevant days shall be calculated by multiplying the amount of the payment by the number equal to the number of relevant days and dividing the product by the number of days in the period in respect of which it is made.

(3) Where a payment is in respect of a period equal to or in excess of a week and a part thereof is to be taken into account for some days only in a benefit week (the relevant days), the amount to be taken into account for the relevant days shall, except where paragraph (4) applies, be calculated by multiplying the amount of the payment by the number equal to the number of relevant days and dividing the product by the number of days in the period in respect of which it is made.

(4) In the case of a payment of—

- (a) unemployment benefit, sickness or invalidity benefit, or severe disablement allowance under the principal Act, the amount to be taken into account for the relevant days shall be the amount of benefit paid in respect of those days;
- (b) income support, the amount to be taken into account for the relevant days shall be calculated by multiplying the weekly amount of the benefit by the number of relevant days and dividing the product by 7.

(5) Except in the case of a payment which it has not been practicable to treat under regulation 31(1)(b) as paid on the first day of the benefit week in which it is due to be paid, where a payment of income from a particular source is or has been paid regularly and that payment falls to be taken into account in the same benefit week as a payment of the same kind and from the same source, the amount of that income to be taken into account in any one benefit week shall not exceed the weekly amount determined under paragraph (1)(a) or (b), as the case may be, of the payment which under regulation 31(1)(b) is treated as paid first.

(6) Where the amount of the claimant's income fluctuates and has changed more than once, or a claimant's regular pattern of work is such that he does not work every week, paragraphs (1) to (5) may be modified so that the weekly amount of his income is determined by reference to his average weekly income—

- (a) if there is a recognisable cycle of work, over the period of one complete cycle (including, where the cycle involves periods in which the claimant does no work, those periods but disregarding any other absences);
- (b) in any other case, over a period of 5 weeks or such other period as may, in the particular case, enable the claimant's average weekly income to be determined more accurately.

Weekly amount of charitable or voluntary payment

33.—(1) Subject to paragraph (2), the weekly amount of any charitable or voluntary payment which is to be treated as income under regulation 24(3) (treatment of charitable or voluntary payments) shall be determined as follows—

- (a) in a case where the first such payment exceeds the annual limit of £250, the excess shall be divided by 52; and the resulting amount treated as weekly income for a period of 52 weeks beginning on the date on which that payment was made;
- (b) in a case where any subsequent payment in aggregate with earlier payments first exceeds that limit, the excess shall be divided by the number equal to the number of weeks (including any part of a week) in the interval beginning with the date of that payment to the end of the period of 52 weeks; and the resulting amount treated as weekly income for each week in that interval; and
- (c) any payment made after that in either sub-paragraph (a) or (b) shall be divided by the number equal to the number of weeks (including any part of a week) in the interval beginning with the date of that payment to the end of the period of 52 weeks; and the resulting amount treated as weekly income for each week in that interval.

(2) Where the date on which the payment is made is not the first day of the benefit week in which it is made it shall be treated as paid on the first day of that benefit week or the first succeeding benefit week in which it is practicable to take the weekly amount of the payment into account.

Incomplete weeks of benefit

34.—(1) Where a claim for income support is made for a period (the relevant period) which is not a complete benefit week and a payment of income is to be taken into account in that period, for the purposes of calculating the amount to be taken into account—

- (a) the claimant shall be treated as if he had a benefit week beginning 7 days before the end of the relevant period; and
- (b) except where paragraph (2) or (3) applies, the amount to be taken into account in the relevant period shall be determined—

- (i) by multiplying the weekly amount of the payment determined under regulation 32(1) (calculation of weekly amount of income) less any sum which would fall to be disregarded from that amount under Schedule 8 or, as the case may be, 9 (earnings and other income to be disregarded) by the number equal to the number of days in the relevant period, and
- (ii) by dividing the product by 7.

(2) Where entitlement to income support would otherwise end before the last day of a benefit week (the relevant week) and a payment of income is to be taken into account in that week, for the purposes of calculating the amount to be taken into account in the relevant week—

- (a) the claimant shall be treated as if he had a benefit week beginning 7 days before the last day of the relevant week; and
- (b) except where paragraph (3) applies, the amount to be taken into account shall be determined—
 - (i) by multiplying the weekly amount of the payment determined under regulation 32(1) less any sum which would fall to be disregarded from that amount under Schedule 8 or, as the case may be, 9 by the number equal to the number of days in the relevant week in respect of which there is entitlement to income support, and
 - (ii) by dividing the product by 7.

(3) The amount of any unemployment benefit, sickness or invalidity benefit, or severe disablement allowance under the principal Act to be taken into account under paragraph (1) or (2) shall be the amount of benefit payable in respect of those days for which income support is payable.

CHAPTER III

EMPLOYED EARNERS

Earnings of employed earners

35.—(1) Subject to paragraph (2), “earnings” means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
- (b) any payment in lieu of remuneration except any periodic sum paid to a claimant on account of the termination of his employment by reason of redundancy;
- (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
- (d) any holiday pay except any payable more than 4 weeks after the termination or interruption of employment but this exception shall not apply to a claimant to whom, and for so long as, Article 24 of the Order (trade disputes) applies;

- (e) any payment by way of a retainer;
- (f) any payment made by the claimant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the claimant's employer in respect of—
 - (i) travelling expenses incurred by the claimant between his home and place of employment,
 - (ii) expenses incurred by the claimant under arrangements made for the care of a member of his family owing to the claimant's absence from home;
- (g) any award of compensation made under Article 32(2)(a) or (5) of the Industrial Relations (Northern Ireland) Order 1976(a) (remedies for unfair dismissal and compensation);
- (h) any such sum as is referred to in Article 14(2) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(b) (certain sums to be earnings for social security purposes);
- (i) any payment made under the legislation of, or under any scheme operating in, the Republic of Ireland which is analogous to any income to which sub-paragraphs (a) to (h) relate.
- (2) "Earnings" shall not include—
 - (a) any payment in kind;
 - (b) any remuneration paid by or on behalf of an employer to the claimant who for the time being is unable to work due to illness or maternity;
 - (c) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
 - (d) any occupational pension.

Calculation of net earnings of employed earners

36.—(1) For the purposes of regulation 29 (calculation of earnings derived from employed earner's employment and income other than earnings), the earnings of a claimant derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings.

(2) There shall be disregarded from a claimant's net earnings any sum, where applicable, specified in paragraphs 1 to 13 of Schedule 8 (earnings to be disregarded).

(3) For the purposes of paragraph (1), net earnings shall be calculated by taking into account the gross earnings of the claimant from that employment less—

- (a) any amount deducted from those earnings by way of—
 - (i) income tax, and

(a) S.I. 1976/1043 (N.I. 16); Article 32(2)(a) and (5) was amended by paragraph 4(5) of Schedule 3 to the Industrial Relations (Northern Ireland) Order 1987 (S.I. 1987/936 (N.I. 9))

(b) S.I. 1977/610 (N.I. 11); Article 14(2) was amended by paragraph 49 of Schedule 9 to, and Schedule 10 to, the Social Security (Northern Ireland) Order 1986

(ii) primary Class 1 contributions(a); and

(b) one half of any sum paid by the claimant by way of a contribution towards an occupational or personal pension scheme.

(4) Where the claimant is an 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.

CHAPTER IV

SELF-EMPLOYED EARNERS

Earnings of self-employed earners

37.—(1) Subject to paragraph (2), “earnings”, in the case of employment as a self-employed earner, means the gross receipts of the employment and shall include any allowance payable pursuant to arrangements made by the Department of Economic Development(b) under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(c) or any equivalent allowance payable under Republic of Ireland legislation to the claimant for the purpose of assisting him in carrying on his business.

(2) Earnings shall not include, where a claimant is employed in providing board and lodging accommodation for which a charge is payable, any payment by way of such a charge except where the claimant is a seasonal worker to whom regulation 43 (notional earnings of seasonal workers) applies and the payment is due during the period of his normal employment.

Calculation of net profit of self-employed earners

38.—(1) For the purposes of regulation 30 (calculation of earnings of self-employed earners), the earnings of a claimant to be taken into account shall be—

- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- (b) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners’ Benefits) Regulations (Northern Ireland) 1975(d), his share of the net profit derived from that employment less—

(a) See sections 1(2) 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, 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, Schedule 5 to the Social Security (Northern Ireland) Order 1982, Articles 9(1) and (2) and 10 of the Social Security (Northern Ireland) Order 1985, paragraph 69 of Schedule 9 to the Social Security (Northern Ireland) Order 1986 and Article 2 of S.R. 1987 No. 26

(b) See S.R. & O. (N.I.) 1964 No. 205, Article 3 for change in style of Ministry of Labour and National Insurance to Ministry of Health and Social Services; S.R. & O. (N.I.) 1973 No. 504, Article 6 for transfer of functions from Ministry of Health and Social Services to Department of Manpower Services and S.I. 1982/846 (N.I. 11), Article 3 for renaming the Department of Manpower Services the Department of Economic Development

(c) 1950 c. 29 (N.I.)

(d) S.R. 1975 No. 108, to which there are amendments not relevant to these regulations

- (i) an amount in respect of income tax and of contributions payable under the principal Act calculated in accordance with regulation 39 (deduction of tax and contributions for self-employed earners), and
- (ii) one half of any qualifying premium payable.

(2) There shall be disregarded from a claimant's net profit any sum, where applicable, specified in paragraphs 1 to 13 of Schedule 8 (earnings to be disregarded).

(3) For the purposes of paragraph (1)(a), the net profit of the employment shall, except where paragraph (9) applies, be calculated by taking into account the earnings of the employment over the period determined under regulation 30 less—

- (a) subject to paragraphs (5) to (7), any expenses wholly and exclusively defrayed in that period for the purposes of that employment;
- (b) an amount in respect of—
 - (i) income tax, and
 - (ii) contributions payable under the principal Act, calculated in accordance with regulation 39; and
- (c) one half of any qualifying premium payable.

(4) For the purposes of paragraph (1)(b), the net profit of the employment shall be calculated by taking into account the earnings of the employment over the period determined under regulation 30 less, subject to paragraphs (5) to (7), any expenses wholly and exclusively defrayed in that period for the purposes of that employment.

(5) Subject to paragraph (6), no deduction shall be made under paragraph (3)(a) or (4) in respect of—

- (a) any capital expenditure;
- (b) the depreciation of any capital asset;
- (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
- (d) any loss incurred before the beginning of the period determined under regulation 30;
- (e) the repayment of capital on any loan taken out for the purposes of the employment;
- (f) any expenses incurred in providing business entertainment.

(6) A deduction shall be made under paragraph (3)(a) or (4) in respect of the repayment of capital on any loan used for—

- (a) the replacement in the course of business of equipment or machinery;
- (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair; and
- (c) the purchase of land under the Northern Ireland Land Act 1925(a).

(7) An adjudication officer shall refuse to make a deduction in respect of any expenses under paragraph (3)(a) or (4) where he is not satisfied that the

expense has been defrayed or, having regard to the nature of the expense and its amount, that it has been reasonably incurred.

(8) For the avoidance of doubt—

(a) a deduction shall not be made under paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;

(b) a deduction shall be made thereunder in respect of—

(i) the excess of any value added tax paid over value added tax received in the period determined under regulation 30,

(ii) any income expended in the repair of an existing asset except to the extent that any sum is payable under an insurance policy for its repair,

(iii) any payment of interest on a loan taken out for the purposes of the employment.

(9) Where a claimant is engaged in employment as a child minder the net profit of the employment shall be one third of the earnings of that employment less—

(a) an amount in respect of—

(i) income tax, and

(ii) contributions payable under the principal Act, calculated in accordance with regulation 39; and

(b) one half of any qualifying premium payable.

(10) Notwithstanding regulation 30 and paragraphs (1) to (9), an adjudication officer may assess any item of a claimant's income or expenditure over a period other than that determined under regulation 30 as may, in the particular case, enable the weekly amount of that item of income or expenditure to be determined more accurately.

(11) For the avoidance of doubt where a claimant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.

(12) In this regulation “qualifying premium” means any premium or other consideration payable under an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision for the claimant of a life annuity in old age or the provision of an annuity for his partner or for any one or more of his dependants and in respect of which relief from income tax may be given.

(13) Where the claimant is a self-employed earner in the Republic of Ireland the amounts to be deducted for income tax and 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.

Deduction of tax and contributions for self-employed earners

39.—(1) The amount to be deducted in respect of income tax under regulation 38(1)(b)(i), (3)(b)(i) or (9)(a)(i) (calculation of net profit of

self-employed earners) shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at the basic rate of tax less only the personal relief 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 relief) as is appropriate to his circumstances; but, if the period determined under regulation 30 (calculation of earnings of self-employed earners) is less than a year, the amount of the personal relief deductible under this paragraph shall be calculated on a pro rata basis.

(2) The amount to be deducted in respect of contributions under regulation 38(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) shall be the total of—

- (a) the amount of Class 2 contributions payable under section 7(1) or, as the case may be, (4) of the principal Act(b) except where the claimant's chargeable income is less than the amount for the time being specified in section 7(5) of that Act(c) (small earnings exception); and
 - (b) the amount of Class 4 contributions (if any) which would be payable under section 9 of that Act(d) (Class 4 contributions recoverable under Tax Acts) in respect of profits or gains equal to the amount of that income.
- (3) In this regulation "chargeable income" means—
- (a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under regulation 38(3)(a) or, as the case may be, 38(4);
 - (b) in the case of employment as a child minder, one third of the earnings of that employment.

CHAPTER V

OTHER INCOME

Calculation of income other than earnings

40.—(1) For the purposes of regulation 29 (calculation of income other than earnings), the income of a claimant which does not consist of earnings to

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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) Section 7(1) was amended by Article 3(1) of the Social Security and Family Allowances (Northern Ireland) Order 1976, Article 11(1) of the Health and Social Security (Northern Ireland) Order 1984 and Article 3(a) of S.R. 1987 No. 26
 - (c) Section 7(5) was amended by Article 3(b) of S.R. 1987 No. 26
 - (d) Section 9 was amended by Article 6(3) of the Social Security Pensions (Northern Ireland) Order 1975, Article 5(a) of S.R. 1982 No. 413 and Article 5 of S.R. 1987 No. 26

be taken into account shall, subject to paragraphs (2) and (3), be his gross income and any capital treated as income under regulations 24(3), 41 and 44 (treatment of charitable and voluntary payments, capital treated as income and modifications in respect of children and young persons).

(2) There shall be disregarded from the calculation of a claimant's gross income under paragraph (1) any sum, where applicable, specified in Schedule 9 (income to be disregarded).

(3) Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under paragraph (1) shall be the gross amount payable.

(4) For the avoidance of doubt there shall be included as income to be taken into account under paragraph (1) any payment to which regulation 35(2) or 37(2) (payments not earnings) applies.

Capital treated as income

41.—(1) Any capital payable by instalments which are outstanding on the first day in respect of which income support is payable or the date of the determination of the claim, whichever is earlier, or, in the case of a review, the date of any subsequent review shall, if the aggregate of the instalments outstanding and the amount of the claimant's capital otherwise calculated in accordance with Chapter VI of this Part exceeds £6,000, be treated as income.

(2) Any payment received under an annuity shall be treated as income.

(3) In the case of a person to whom Article 24 of the Order (trade disputes) applies and for so long as it applies, any payment under section 164 of the Children and Young Persons Act (Northern Ireland) 1968(a) (general function for promoting the welfare of persons under the age of 18) shall be treated as income.

Notional income

42.—(1) A claimant shall be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to income support or increasing the amount of that benefit.

(2) Except in the case of—

(a) a discretionary trust;

(b) a trust derived from a payment made in consequence of a personal injury;

(c) unemployment benefit under the principal Act which may be payable to a claimant who is not required to be available for employment; or

(d) an increase of child benefit payable to a claimant under regulation 2(2) of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations (Northern Ireland) 1976(b) (rates of child benefit),

income which would become available to the claimant upon application being made but which has not been acquired by him shall be treated as possessed by him but only from the date on which it would be so acquired.

(a) 1968 c. 34 (N.I.); section 164 was amended by Schedule 18 to the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14))

(b) S.R. 1976 No. 223; the relevant amending rules are S.R. 1980 No. 37 and S.R. 1987 No. 458

(3) Except in the case of a discretionary trust, or a trust derived from a payment made in consequence of a personal injury, any income which is due to be paid to the claimant but—

- (a) has not been paid to him;
- (b) is not a payment prescribed in regulation 9 or 10 of the Social Security (Payments on account, Overpayment and Recovery) Regulations (Northern Ireland) 1987(a) (duplication and prescribed payments or maintenance payments) and not made on or before the date prescribed in relation to it,

shall be treated as possessed by the claimant.

(4) Any payment of income made—

- (a) to a third party in respect of a member of the family (but not a member of the third party's family) shall be treated—
 - (i) in a case where that payment is derived from a payment of any benefit under the benefit Acts, a war disablement pension or war widow's pension, as possessed by that member if it is paid to any member of that family,
 - (ii) in any other case, as possessed by that member to the extent that it is used for the food, clothing, footwear, fuel, rent or rates for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 17(e) or 18(f) (housing costs), of any member of that family;
- (b) to a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that member to the extent that it is kept by him or used by or on behalf of any member of the family,

but, except where sub-paragraph (a)(i) applies and in the case of a person to whom Article 24 of the Order (trade disputes) applies, this paragraph shall not apply to any payment in kind.

(5) Where a claimant's earnings are not ascertainable at the time of the determination of the claim or of any subsequent review the adjudication officer shall treat the claimant as possessing such earnings as is reasonable in the circumstances of the case having regard to the number of hours worked and the earnings paid for comparable employment in the area.

(6) Where—

- (a) a claimant performs a service for another person; and
- (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,

the adjudication officer shall treat the claimant as possessing such earnings (if any) as is reasonable for that employment unless the claimant satisfies him that the means of that person are insufficient for him to pay or to pay more for the service; but this paragraph shall not apply to a claimant who is engaged by a charitable or voluntary body or is a volunteer if the adjudication officer is satisfied that it is reasonable for him to provide his services free of charge.

(7) Where a claimant is treated as possessing any income under any of paragraphs (1) to (4) the foregoing provisions of this Part shall apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

(8) Where a claimant is treated as possessing any earnings under paragraph (5) or (6) the foregoing provisions of this Part shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and is if they were actual earnings which he does possess except that regulation 36(3) (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account the earnings which he is treated as possessing, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax in the year of assessment less only the personal relief 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 (personal relief) as is appropriate to his circumstances; but, if the period over which those earnings are to be taken into account is less than a year, the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis;
- (b) an amount in respect of primary Class 1 contributions in respect of those earnings; and
- (c) one half of any sum payable by the claimant by way of a contribution towards an occupational or personal pension scheme.

(9) Where the claimant is an 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.

Notional earnings of seasonal workers

43.—(1) Where the claimant is a seasonal worker or, if he is one of a couple, he or his partner is a seasonal worker (but not both), and—

- (a) a claim for income support is made in respect of any day in the claimant's off-season or, as the case may be, in his partner's off-season; and
- (b) his or, as the case may be, his partner's net earnings in his last period of normal employment less any earnings for any week in that period which have been taken into account in calculating entitlement to income support, exceeded 3 times the total of the amounts for that period specified in paragraph (2)(a)(i) or, as the case may be, (ii) and, where applicable, paragraph (2)(b),

the amount by which those earnings exceeded that total shall be divided by the number equal to the number of weeks (including any part of a week) in his or, as the case may be, his partner's off-season and the amount so obtained shall be treated as earnings possessed by the claimant or his partner in each of those weeks.

- (2) The amounts specified for the purposes of paragraph (1)(b) are—

(a) either—

- (i) in a case where the claimant is one of a couple, the personal allowance for a couple, or
- (ii) in a case where he is not one of a couple, the personal allowance for a single claimant not less than age 25; and

(b) in respect of each child or young person who is a member of the claimant's family, the amount which is equal to the applicable amount for a child under age 11.

(3) Where the claimant and his partner are seasonal workers and both have started their, or only one has started his, off-season, paragraph (1) shall apply to the claimant or, where his partner is the only one whose off-season has started, to his partner as if he were the only seasonal worker until the end of his off-season and thereafter to the other member subject to the modifications in paragraphs (4) to (6).

(4) The other member's last period of normal employment shall be—

- (a) in a case where that member's normal employment has ceased, the period beginning with the start of the employment of that member and ending with the last day of that employment;
- (b) in a case where that member's normal employment has not ceased, the period beginning with the start of the employment of that member and ending with—
 - (i) the day before the start of the off-season of his partner, or
 - (ii) the date of claim for income support,whichever is the later.

(5) The period of the other member's off-season shall be—

- (a) in a case where that member's normal employment has ceased, the period beginning with the start of his off-season and ending with the day before he is to resume normal employment; or
- (b) in a case where that member's normal employment has not ceased, the period beginning with the date on which the off-season of either member first starts or, as the case may be, the date of claim for income support whichever is later and ending with the day before that on which either member is first to resume normal employment.

(6) The other member's net earnings in his last period of normal employment as determined under paragraph (4) less—

- (a) any earnings for any week in that period which have been taken into account in calculating entitlement to income support; and
- (b) in so far as any week in that period—
 - (i) does not coincide with a week in his partner's period of normal employment, 3 times the total of the amounts for that week specified for the purposes of paragraph (1)(b),
 - (ii) does coincide with a week in his partner's period of normal employment, the extent (if any) by which the amount so specified has not been taken into account in the calculation of his partner's notional earnings,

shall be divided by the number equal to the number of weeks (including any part of a week) in that member's off-season as determined under paragraph (5) and the amount so obtained shall be treated as earnings possessed by that member in each of those weeks.

(7) In this regulation "normal employment", "off-season" and "seasonal worker" have the meanings assigned to them in regulation 21 of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1984(a) (additional condition with respect to receipt of unemployment benefit) except that the expression "employment" in that regulation shall be construed as if it included a reference to employment as a self-employed earner.

(8) Where a claimant or his partner is treated as possessing any earnings under this regulation the foregoing provisions of this Part, except regulation 38(2) in so far as it applies to paragraph 3 of Schedule 8 (earnings to be disregarded), shall apply for the purposes of calculating those earnings as if a payment had actually been made and as if they were actual earnings which he does possess.

Modifications in respect of children and young persons

44.—(1) Any capital of a child or young person payable by instalments which are outstanding on the first day in respect of which income support is payable or at the date of the determination of the claim, whichever is earlier, or, in the case of a review, the date of any subsequent review shall, if the aggregate of the instalments outstanding and the amount of that child's or young person's other capital calculated in accordance with Chapter VI of this Part in like manner as for the claimant, except where otherwise provided, would exceed £3,000, be treated as income.

(2) In the case of a child or young person who is residing at an educational establishment at which he is receiving relevant education—

- (a) any payment made to the educational establishment, in respect of that child's or young person's maintenance, by or on behalf of a person who is not a member of the family or by a member of the family out of funds contributed for that purpose by a person who is not a member of the family, shall be treated as income of that child or young person but it shall only be taken into account over periods during which that child or young person is present at that educational establishment; and
- (b) if a payment has been so made, for any period in a benefit week in term-time during which that child or young person returns home, he shall be treated as possessing an amount of income in that week calculated by multiplying the amount of personal allowance and disabled child premium, if any, applicable in respect of that child or young person by the number equal to the number of days in that week in which he was present at his educational establishment and dividing the product by 7; but this sub-paragraph shall not apply where the educational establishment is provided under Article 6 of the Education and Libraries (Northern Ireland) Order 1986(b) (duty of boards to secure primary and secondary education) by an education and library board.

(a) S.R. 1984 No. 245, to which there are amendments not relevant to these regulations

(b) S.I. 1986/594 (N.I. 3)

(3) Where a child or young person is resident at an educational establishment and he is wholly or partly maintained at that establishment by an education and library board under Article 6 of the Education and Libraries (Northern Ireland) Order 1986 he shall for each day he is present at that establishment be treated as possessing an amount of income equal to the sum obtained by dividing the amount of personal allowance and disabled child premium, if any, applicable in respect of him by 7.

(4) Where the income of a child or young person who is a member of the claimant's family calculated in accordance with the foregoing provisions of this Part exceeds the amount of the personal allowance and disabled child premium, if any, applicable in respect of that child or young person, the excess shall not be treated as income of the claimant.

(5) Where the capital of a child or young person if calculated in accordance with Chapter VI of this Part in like manner as for the claimant, except where otherwise provided, would exceed £3,000, any income of that child or young person shall not be treated as income of the claimant.

(6) In calculating the net earnings or net profit of a child or young person there shall be disregarded, (in addition to any sum which falls to be disregarded under paragraphs 11 to 13 of that Schedule), any sum specified in paragraphs 14 and 15 of Schedule 8 (earnings to be disregarded).

(7) Any income of a child or young person which is to be disregarded under Schedule 9 (income other than earnings to be disregarded) shall be disregarded in such manner as to produce the result most favourable to the claimant.

(8) Where a child or young person is treated as possessing any income under paragraphs (2) and (3) the foregoing provisions of this Part shall apply for the purposes of calculating that income as if a payment had actually been made and as if it were actual income which he does possess.

CHAPTER VI

CAPITAL

Capital limit

45. For the purposes of Article 23(6) of the Order as it applies to income support (no entitlement to benefit if capital exceeds prescribed amount), the prescribed amount is £6,000.

Calculation of capital

46.—(1) For the purposes of Part III of the Order as it applies to income support, the capital of a claimant to be taken into account shall, subject to paragraph (2), be the whole of his capital calculated in accordance with this Part and any income treated as capital under regulations 24(2) and 48 (treatment of charitable or voluntary payments and income treated as capital).

(2) There shall be disregarded from the calculation of a claimant's capital under paragraph (1) any capital, where applicable, specified in Schedule 10 (capital to be disregarded).

Disregard of capital of child or young person

47. The capital of a child or young person who is a member of the claimant's family shall not be treated as capital of the claimant.

Income treated as capital

48.—(1) Any annual bounty derived from employment to which paragraph 7 of Schedule 8 (sums to be disregarded in the calculation of earnings) applies shall be treated as capital.

(2) Except in the case of an amount to which Article 24(5)(a)(ii) of the Order (refund of tax in trade disputes cases) applies, any amount by way of a refund of income tax deducted from profits or emoluments chargeable to—

(a) income tax under Schedule D or E;

(b) income tax under the legislation of the Republic of Ireland which is analogous to income tax under Schedule D or E,

shall be treated as capital.

(3) Any holiday pay which is not earnings under regulation 35(1)(d) (earnings of employed earners) shall be treated as capital.

(4) Except any income derived from capital disregarded under paragraph 1, 2, 4, 6 or 12 of Schedule 10, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the claimant's account.

(5) Subject to paragraph (6), in the case of employment as an employed earner, any advance of earnings or any loan made by the claimant's employer shall be treated as capital.

(6) For so long as Article 24 of the Order (trade disputes) applies to a person, paragraph (5) shall not apply to him and, if he is a person to whom Article 24(8) of the Order applies, paragraph (5) shall not apply until the end of the period specified in the said Article 24(8).

(7) Any payment under section 41 of the Prison Act (Northern Ireland) 1953(a) (payments for discharged prisoners) shall be treated as capital.

(8) Any payment made by a local authority, as defined in section 107 of the Children Act 1975(b), which represents arrears of payments under section 34(6) or, as the case may be, section 50 thereof (contributions to a custodian towards the cost of accommodation and maintenance of a child) shall be treated as capital.

Calculation of capital in the United Kingdom

49. Capital which a claimant possesses in the United Kingdom shall be calculated—

(a) except in a case to which paragraph (b) applies, at its current market or surrender value, less—

(i) where there would be expenses attributable to sale, 10 per cent.,
and

(a) 1953 c. 18 (N.I.); section 41 was amended by section 27 of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.))

(b) 1975 c. 72; section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)

- (ii) the amount of any incumbrance secured on it;
- (b) in the case of an Ulster or a National Savings Certificate—
 - (i) if purchased from an issue the sale of which ceased before 1st July last preceding the first day on which income support is payable or the date of the determination of the claim, whichever is the earlier, or in the case of a review, the date of any subsequent review, at the price which it would have realised on that 1st July had it been purchased on the last day of that issue,
 - (ii) in any other case, at its purchase price.

Calculation of capital outside the United Kingdom

50. Capital which a claimant possesses in a country outside the United Kingdom shall be calculated—

- (a) in a case in which there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
- (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer, less, where there would be expenses attributable to sale, 10 per cent. and the amount of any incumbrance secured on it.

Notional capital

51.—(1) A claimant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to income support or increasing the amount of that benefit.

- (2) Except in the case of—
 - (a) a discretionary trust;
 - (b) a trust derived from a payment made in consequence of a personal injury; or
 - (c) any loan which would be obtainable only if secured against capital disregarded under Schedule 10 (capital to be disregarded),
 any capital which would become available to the claimant upon application being made, but which has not been acquired by him, shall be treated as possessed by him but only from the date on which it would be so acquired.
- (3) Any payment of capital made—
 - (a) to a third party in respect of a member of the family (but not a member of the third party's family) shall be treated—
 - (i) in a case where that payment is derived from a payment of any benefit under the benefit Acts, a war disablement pension or a war widow's pension, as possessed by that member if it is paid to any member of the family,
 - (ii) in any other case, as possessed by that member to the extent that it is used for the food, clothing, footwear, fuel, rent or rates for which housing benefit is payable, or any housing costs to the extent that they are met under regulations 17(e) and 18(f) (housing costs), of any member of that family;

(b) to a member of the family in respect of a third party (but not in respect of another member of the family) shall be treated as possessed by that member to the extent that it is kept by him or used on behalf of any member of the family.

(4) Where a claimant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he shall be treated as if he were such sole owner or partner and in such a case—

(a) the value of his holding in that company shall, notwithstanding regulation 46 (calculation of capital), be disregarded; and

(b) he shall, subject to paragraph (5), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(5) For so long as the claimant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (4) shall be disregarded.

(6) Where a claimant is treated as possessing capital under any of paragraphs (1) to (4), the foregoing provisions of this Chapter shall apply for the purposes of calculating its amount as if it were actual capital which he does possess.

Capital jointly held

52.—(1) Subject to paragraph (2), except where a claimant possesses capital which is disregarded under regulation 51(4) (notional capital), where a claimant and one or more persons are beneficially entitled in possession to any capital asset they shall be treated as if each of them were entitled in possession to the whole beneficial interest therein in an equal share.

(2) Any premises not wholly owned by the claimant shall be disregarded for such period as is reasonable in the circumstances in order to determine the exact nature and value of the claimant's interest.

Calculation of tariff income from capital

53.—(1) Where the claimant's capital calculated in accordance with this Part exceeds £3,000 it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £3,000 but not exceeding £6,000.

(2) Notwithstanding paragraph (1), where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly income of £1.

(3) For the purposes of paragraph (1), capital includes any income treated as capital under regulations 24(2), 48 and 60 (charitable or voluntary payments, income treated as capital and liable relative payments treated as capital).

CHAPTER VII

LIABLE RELATIVES

*Interpretation***54.** In this Chapter—

“claimant” includes a young claimant;

“liable relative” means—

- (a) a spouse or former spouse of a claimant or of a member of the claimant's family;
- (b) a parent of a child or young person who is a member of the claimant's family or of a young claimant;
- (c) a person who has not been adjudged to be the father of a child or young person who is a member of the claimant's family or of a young claimant where that person is contributing towards the maintenance of that child, young person or young claimant and by reason of that contribution he may reasonably be treated as the father of that child, young person or young claimant;
- (d) a person liable to maintain another person by virtue of Article 27(3)(c) of the Order (liability to maintain) where the latter is the claimant or a member of the claimant's family,

and, in this definition, a reference to a child's, young person's or young claimant's parent includes any person in relation to whom the child, young person or young claimant was treated as a child or a member of the family;

“payment” means a periodical payment or any other payment made by or derived from a liable relative including, except in the case of a discretionary trust, any payment which would be so made or derived upon application being made by the claimant but which has not been acquired by him but only from the date on which it would be so acquired; but it does not include any payment—

- (a) arising from a disposition of property made in contemplation of, or as a consequence of—
 - (i) an agreement to separate, or
 - (ii) any proceedings for judicial separation, divorce or nullity of marriage;
- (b) made after the death of the liable relative;
- (c) made by way of a gift but not in aggregate or otherwise exceeding £250 in the period of 52 weeks beginning with the date on which the payment, or if there is more than one such payment the first payment, is made; and, in the case of a claimant who continues to be in receipt of income support at the end of the period of 52 weeks, this provision shall continue to apply thereafter with the modification that any subsequent period of 52 weeks shall begin with the first day of the benefit week in which the first payment is made after the end of the previous period of 52 weeks;
- (d) to which regulation 44(2) (modifications in respect of children and young persons) applies;

(e) made—

- (i) to a third party in respect of the claimant or a member of the claimant's family, or
- (ii) to the claimant or to a member of the claimant's family in respect of a third party,

where having regard to the purpose of the payment, the terms under which it is made and its amount, it is unreasonable to take it into account;

(f) in kind;

(g) to, or in respect of, a child or young person who is to be treated as not being a member of the claimant's household under regulation 16 (circumstances in which a person is to be treated as being or not being a member of the same household);

(h) which is not a periodical payment, to the extent that any amount of that payment—

- (i) has already been taken into account under this Part by virtue of a previous claim or determination, or
- (ii) has been recovered under Article 28(1) of the Order (prevention of duplication of payments) or is currently being recovered, or
- (iii) at the time the determination is made, has been used by the claimant except where he has deprived himself of that amount for the purpose of securing entitlement to income support or increasing the amount of that benefit;

“periodical payment” means—

- (a) a payment which is made or is due to be made at regular intervals in pursuance of a court order or agreement for maintenance;
- (b) in a case where the liable relative has established a pattern of making payments at regular intervals, any such payment;
- (c) any payment not exceeding the amount of income support payable had that payment not been made;
- (d) any payment representing a commutation of payments to which paragraph (a) or (b) of this definition applies whether made in arrears or in advance,

but does not include a payment due to be made before the first benefit week pursuant to the claim which is not so made;

“young claimant” means a person aged 16 or over but under 19 who makes a claim for income support.

Treatment of liable relative payments

55. Except where regulation 60(1) (liable relative payments to be treated as capital) applies a payment shall—

- (a) to the extent that it is not a payment of income, be treated as income;
- (b) be taken into account in accordance with the following provisions of this Chapter.

Period over which periodical payments are to be taken into account

56.—(1) The period over which a periodical payment is to be taken into account shall be—

- (a) in a case where the payment is made at regular intervals, a period equal to the length of that interval;
- (b) in a case where the payment is due to be made at regular intervals but is not so made, such number of weeks as is equal to the number (and any fraction shall be treated as a corresponding fraction of a week) obtained by dividing the amount of that payment by the weekly amount of that periodical payment as calculated in accordance with regulation 58(4) (calculation of the weekly amount of a liable relative payment);
- (c) in any other case, a period equal to a week.

(2) The period under paragraph (1) shall begin on the date on which the payment is treated as paid under regulation 59 (date on which a liable relative payment is to be treated as paid).

Period over which payments other than periodical payments are to be taken into account

57.—(1) Subject to paragraph (2), the number of weeks over which a payment other than a periodical payment is to be taken into account shall be equal to the number (and any fraction shall be treated as a corresponding fraction of a week) obtained by dividing that payment by—

- (a) where the payment is in respect of the claimant or the claimant and any child or young person who is a member of the family, the aggregate of £2 and the amount of income support which would be payable had the payment not been made;
- (b) where the payment is in respect of one or more than one child or young person who is a member of the family the amount prescribed in Schedule 2 (applicable amounts) in respect of each child or young person and any family and lone parent premium;

(2) Where a liable relative makes a periodical payment and any other payment concurrently and the weekly amount of that periodical payment, as calculated in accordance with regulation 58 (calculation of the weekly amount of a liable relative payment), is less than—

- (a) in a case where the periodical payment is in respect of the claimant or the claimant and any child or young person who is a member of the family, the aggregate of £2 and the amount of income support which would be payable had the payments not been made; or
- (b) in a case where the periodical payment is in respect of one or more than one child or young person who is a member of the family, the aggregate of the amount prescribed in Schedule 2 in respect of each such child or young person and any family and lone parent premium,

that other payment shall, subject to paragraph (3), be taken into account over a period of such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing that payment by an amount equal to the extent of the difference between the

amount referred to in sub-paragraph (a) or (b), as the case may be, and the weekly amount of the periodical payment.

(3) If—

- (a) the liable relative ceases to make periodical payments, the balance (if any) of the other payment shall be taken into account over the number of weeks equal to the number (and any fraction shall be treated as a corresponding fraction of a week) obtained by dividing that balance by the amount referred to in paragraph (1)(a) or (b), as the case may be;
- (b) the amount of any subsequent periodical payment varies, the balance (if any) of the other payment shall be taken into account over a period of such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing that balance by an amount equal to the extent of the difference between the amount referred to in paragraph (2)(a) or (b) and the weekly amount of the subsequent periodical payment.

(4) The period under paragraph (1) or (2) shall begin on the date on which the payment is treated as paid under regulation 59 (date on which a liable relative payment is to be treated as paid) and under paragraph (3) shall begin on the first day of the benefit week in which the cessation or variation of the periodical payment occurred.

Calculation of the weekly amount of a liable relative payment

58.—(1) Where a periodical payment is made or is due to be made at intervals of one week, the weekly amount shall be the amount of that payment.

(2) Where a periodical payment is made or is due to be made at intervals greater than one week and those intervals are monthly, the weekly amount shall be determined by multiplying the amount of the payment by 12 and dividing the product by 52.

(3) Where a periodical payment is made or is due to be made at intervals and those intervals are neither weekly nor monthly, the weekly amount shall be determined by dividing that payment by the number equal to the number of weeks (including any part of a week) in that interval.

(4) Where a payment is made and that payment represents a commutation of periodical payments whether in arrears or in advance, the weekly amount shall be the weekly amount of the individual periodical payments so commuted as calculated under paragraphs (1) to (3) as is appropriate.

(5) The weekly amount of a payment to which regulation 57 (period over which payments other than periodical payments are to be taken into account) applies shall be equal to the amount of the divisor used in calculating the period over which the payment or, as the case may be, the balance is to be taken into account.

Date on which a liable relative payment is to be treated as paid

59.—(1) A periodical payment is to be treated as paid—

- (a) in the case of a payment which is due to be made before the first benefit week pursuant to the claim, on the day in the week in which it is due to be paid which corresponds to the first day of the benefit week;

- (b) in any other case, on the first day of the benefit week in which it is due to be paid unless, having regard to the manner in which income support is due to be paid in the particular case, it would be more practicable to treat it as paid on the first day of a subsequent benefit week.
- (2) Subject to paragraph (3), any other payment shall be treated as paid—
- (a) in the case of a payment which is made before the first benefit week pursuant to the claim, on the day in the week in which it is paid which corresponds to the first day of the benefit week;
- (b) in any other case, on the first day of the benefit week in which it is paid unless, having regard to the manner in which income support is due to be paid in the particular case, it would be more practicable to treat it as paid on the first day of a subsequent benefit week.
- (3) Any other payment paid on a date which falls within the period in respect of which a previous payment is taken into account, not being a periodical payment, is to be treated as paid on the first day following the end of that period.

Liable relative payments to be treated as capital

60.—(1) Subject to paragraph (2), where a liable relative makes a periodical payment concurrently with any other payment and the weekly amount of the periodical payment, as calculated in accordance with regulation 58(1) to (4) (calculation of the weekly amount of a liable relative payment), is equal to or greater than the amount referred to in regulation 57(2)(a) (period over which payments other than periodical payments are to be taken into account) less the £2 referred to therein, or paragraph (2)(b) of that regulation, as the case may be, the other payment shall be treated as capital.

(2) If, in any case, the liable relative ceases to make periodical payments, the other payment to which paragraph (1) applies shall be taken into account under regulation 57(1) but, notwithstanding paragraph (4) thereof, the period over which the payment is to be taken into account shall begin on the first day of the benefit week following the last one in which a periodical payment was taken into account.

CHAPTER VIII

STUDENTS

Interpretation

61. In this Chapter,—

“a course of advanced education” means—

- (a) a full-time course leading to a postgraduate degree or comparable qualification, a first degree or comparable qualification, a diploma of higher education, a higher national diploma, a higher national diploma of the Business & Technician Education Council or the Scottish Vocational Education Council or a teaching qualification; or

(b) any other full-time course which is a course of a standard above ordinary national diploma, a national diploma of the Business & Technician Education Council or the Scottish Vocational Education Council, a general certificate of education (advanced level), a Scottish certificate of education (higher grade) or a Scottish certificate of sixth year studies;

“contribution” means any contribution in respect of the income of any other person which a Minister of the Crown or an education authority takes into account in assessing the amount of the student’s grant and by which that amount is, as a consequence, reduced;

“covenant income” means the income net of tax at the basic rate payable to a student under a Deed of Covenant by a person whose income is, or is likely to be, taken into account in assessing the student’s grant or award;

“education authority” means a government department, an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986(a), a local education authority as defined in section 114(1) of the Education Act 1944(b) (interpretation), an education authority as defined in section 135(1) of the Education (Scotland) Act 1980(c) (interpretation), any body which is a research council for the purposes of the Science and Technology Act 1965(d) or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Northern Ireland;

“grant” means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary;

“grant income” means—

(a) any income by way of a grant;

(b) in the case of a student other than one to whom paragraph (c) refers, any contribution which has been assessed whether or not it has been paid;

(c) in the case of a student to whom paragraph 1, 2 or 7 of Schedule 1 (lone parent or disabled student) applies, any contribution which has been assessed and which has been paid,

and any such contribution which is paid by way of a covenant shall be treated as part of the student’s grant income;

“periods of experience” has the meaning prescribed in regulation 3(1) of the Students Awards Regulations (Northern Ireland) 1987(e);

“period of study” means—

(a) in the case of a course of study for one year or less, the period beginning with the start of the course to the end;

(a) S.I. 1986/594 (N.I. 3)

(b) 1944 c. 31 as amended by Article 3(22) of, and Schedule 1 to, S.I. 1974/595 and Article 4(1) of S.I. 1977/293

(c) 1980 c. 44

(d) 1965 c. 4

(e) S.R. 1987 No. 420

- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, the period beginning with the start of the course or, as the case may be, that year's start and ending with either—
- (i) the day before the start of the next year of the course in a case where the student's grant is assessed at a rate appropriate to his studying throughout the year, or, if he does not have a grant, where it would have been assessed at such a rate had he had one, or
 - (ii) in any other case the day before the start of the normal summer vacation appropriate to his course;

“sandwich course” has the meaning prescribed in regulation 3(1) of the Students Awards Regulations (Northern Ireland) 1987;

“standard maintenance grant” means—

- (a) except where paragraph (b) applies, in the case of a student attending a course of study at the University of London or an institution within the area comprising the City of London and the metropolitan police district, the amount specified for the time being in paragraph 2(2)(a) of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1987 for such a student;
- (b) in the case of a student residing at his parents' home the amount specified in paragraph 3(2) of that Schedule;
- (c) in any other case, the amount specified in paragraph 2(2) of that Schedule other than in sub-paragraph (a) or (b) thereof;

“student” means a person aged less than 19 who is attending a full-time course of advanced education or, as the case may be, a person aged 19 or over but under pensionable age who is attending a full-time course of study at an educational establishment; and for the purposes of this definition—

- (a) a person who has started on such a course shall be treated as attending it throughout any period of term or vacation within it, until the end of the course or such earlier date as he abandons it or is dismissed from it;
- (b) a person on a sandwich course shall be treated as attending a full-time course of advanced education or, as the case may be, of study;

“year” in relation to a course, means the period of 12 months beginning on 1st January, 1st April or 1st September according to whether the academic year of the course in question begins in the spring, the summer or the autumn respectively.

Calculation of grant income

62.—(1) The amount of a student's grant income to be taken into account shall, subject to paragraph (2), be the whole of his grant income.

(2) There shall be disregarded from the amount of a student's grant income any payment—

- (a) intended to meet tuition fees or examination fees;

- (b) intended to meet the cost of special equipment for a student on a course which began before 1st September 1986 in architecture, art and design, home economics, landscape architecture, medicine, music, ophthalmic optics, orthoptics, physical education, physiotherapy, radiography, occupational therapy, dental hygiene, dental therapy, remedial gymnastics, town and country planning and veterinary science or medicine;
- (c) intended to meet additional expenditure incurred by a disabled student in respect of his attendance on a course;
- (d) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
- (e) on account of the student maintaining a home at a place other than that at which he resides while attending his course but only to the extent that his rent or rates is not met by housing benefit;
- (f) on account of any other person but only if that person is residing outside of the United Kingdom and there is no applicable amount in respect of him;
- (g) intended to meet the cost of books and equipment (other than special equipment) or if not so intended an amount equal to £210 towards such costs;
- (h) intended to meet travel expenses incurred as a result of his attendance on the course.

(3) A student's grant income shall be apportioned—

- (a) subject to paragraph (4), in a case where it is attributable to the period of study, equally between the weeks in that period;
- (b) in any other case, equally between the weeks in the period in respect of which it is payable.

(4) In the case of a student on a sandwich course, any periods of experience within the period of study shall be excluded and the student's grant income shall be apportioned equally between the remaining weeks in that period.

Calculation of covenant income where a contribution is assessed

63.—(1) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following shall be the whole amount of his covenant income less, subject to paragraph (3), the amount of the contribution.

(2) The weekly amount of the student's covenant income shall be determined—

- (a) by dividing the amount of income which falls to be taken into account under paragraph (1) by 52 or, if there are 53 benefit weeks (including part weeks) in the year, 53; and
- (b) by disregarding from the resulting amount, £5.

(3) For the purposes of paragraph (1), the contribution shall be treated as increased by the amount, if any, by which the amount disregarded under

regulation 62(2)(h) (calculation of grant income) falls short of the amount included in the standard maintenance grant to meet travel expenses.

Calculation of covenant income where no grant income or no contribution is assessed

64.—(1) Where a student is not in receipt of income by way of a grant the amount of his covenant income shall be calculated as follows—

- (a) any sums intended for any expenditure specified in regulation 62(2)(a) to (f), (calculation of grant income) necessary as a result of his attendance on the course, shall be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, shall be apportioned equally between the weeks of the period of study and there shall be disregarded from the covenant income to be so apportioned the amount which would have been disregarded under regulation 62(2)(g) and (h) (calculation of grant income) had the student been in receipt of the standard maintenance grant;
- (c) the balance, if any, shall be divided by 52 or, if there are 53 benefit weeks (including part weeks) in the year, 53 and treated as weekly income of which £5 shall be disregarded.

(2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenant income shall be calculated in accordance with paragraph (1)(a) to (c), except that—

- (a) the value of the standard maintenance grant shall be abated by the amount of his grant income less an amount equal to the amount of any sums disregarded under regulation 62(2)(a) to (f); and
- (b) the amount to be disregarded under paragraph (1)(b) shall be abated by an amount equal to the amount of any sums disregarded under regulation 62(2)(g) and (h).

Relationship with amounts to be disregarded under Schedule 9

65. No part of a student's covenant income or grant income shall be disregarded under paragraph 15 of Schedule 9 (charitable and voluntary payments) and any other income shall only be disregarded thereunder if, and to the extent that, the amount disregarded under regulation 63(2)(b) (calculation of covenant income where a contribution is assessed) or, as the case may be, 64(1)(c) (calculation of covenant income where no grant income or no contribution is assessed) is less than £5.

Other amounts to be disregarded

66.—(1) For the purposes of ascertaining income other than grant income and covenant income, any amounts intended for any expenditure specified in regulation 62(2) (calculation of grant income) necessary as a result of his attendance on the course shall be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under regulations 62(2), 63(3) and 64(1)(a) or (b) (calculation of grant income and covenant income) on like expenditure.

(2) Where a claim is made in respect of any period in the normal summer vacation and any income is payable under a Deed of Covenant which commences or takes effect after the first day of that vacation, that income shall be disregarded.

Disregard of contribution

67. Where the claimant or his partner is a student and the income of one has been taken into account for the purpose of assessing a contribution to the student's grant, an amount equal to the contribution shall be disregarded for the purpose of calculating the income of the one liable to make that contribution.

Income treated as capital

68. Any amount by way of a refund of tax deducted from a student's income shall be treated as capital.

Disregard of changes occurring during summer vacation

69. In calculating a student's income an adjudication officer shall disregard any change in the standard maintenance grant occurring in the recognised summer vacation appropriate to the student's course, if that vacation does not form part of his period of study, from the date on which the change occurred up to the end of that vacation.

PART VI

URGENT CASES

Urgent cases

70.—(1) In a case to which this regulation applies, a claimant's weekly applicable amount and his income and capital shall be calculated in accordance with the provisions of this Part.

(2) Subject to paragraph (4), this regulation applies to—

- (a) a claimant to whom paragraph (3) (certain persons from abroad) applies;
- (b) a claimant who is treated as possessing income under regulation 42(3) (notional income);
- (c) a claimant who or whose partner is a seasonal worker treated as possessing earnings under regulation 43 (notional earnings of seasonal workers).

(3) This paragraph applies to a person from abroad within the meaning of regulation 21(3) (special cases) who—

- (a) having, during any one period of limited leave of a kind referred to in sub-paragraph (a) of that definition (including any period as extended), supported himself without recourse to public funds other than any such recourse by reason of the previous application of this sub-paragraph, is temporarily without funds during that period of leave because remittances to him from abroad have been disrupted provided that there is a reasonable expectation that his supply of funds will be resumed;

- (b) is awaiting the determination of an application made under section 3 of the 1971 Act (a) (general provisions for regulation and control) for his leave to remain in the United Kingdom to be varied so as to be leave under any provision in the immigration rules which does not refer to there being, or to there needing to be, no recourse to public funds or to there being no charge on public funds during that limited leave;
 - (c) is awaiting the outcome of an appeal made under Part II of the 1971 Act (including any period for which the appeal is treated as pending under section 33(4) of that Act);
 - (d) is a person to whom sub-paragraph (b) of that definition applies who has applied for leave within the meaning of the 1971 Act to remain in the United Kingdom, being leave under any provision in the immigration rules which does not refer to there being, or to there needing to be, no recourse to public funds or to there being no charge on public funds during that leave and is awaiting the determination of that application;
 - (e) is a person to whom sub-paragraph (c) of that definition applies but whose removal from the United Kingdom has been deferred in writing by the Secretary of State;
 - (f) is a person, other than someone to whom sub-paragraph (c) of that definition applies, who has been granted permission to remain in the United Kingdom pending the removal of a person to whom sub-paragraph (e) applies;
 - (g) is a person who has no or no further right of appeal under the 1971 Act but has been allowed to remain in the United Kingdom while an application so to remain is, or representations on his behalf are, being considered by the Secretary of State;
 - (h) is a person to whom sub-paragraph (d) of that definition applies and who has been allowed to remain in the United Kingdom with the consent in writing of the Secretary of State;
 - (i) is a person to whom sub-paragraph (e), (f) or (g) of that definition applies and whose applicable amount, but for this sub-paragraph, would if calculated in accordance with regulation 21 (special cases) be nil;
 - (j) is a person other than one to whom sub-paragraph (e) applies who is subject to a direction for his removal from the United Kingdom, but whose removal has been deferred in writing by the Secretary of State.
- (4) This regulation shall only apply to a person to whom paragraph (2)(b) or (c) applies, where the income or earnings he is treated as possessing by virtue of regulation 42(3) (notional income) or regulation 43 (notional earnings of seasonal workers) is not readily available to him; and
- (a) the amount of income support which would be payable but for this Part is less than the amount of income support payable by virtue of the provisions of this Part; and
 - (b) the adjudication officer is satisfied that, unless the provisions of this Part are applied to the claimant, the claimant or his family will suffer hardship.

(a) 1971 c. 77, as amended by section 39 of, and Schedule 4 to, the British Nationality Act 1981 (c. 61)

Applicable amounts in urgent cases

71.—(1) For the purposes of calculating any entitlement to income support under this Part—

(a) except in a case to which sub-paragraph (b) or (c) applies, a claimant's weekly applicable amount shall be the aggregate of—

- (i) 90 per cent. of the amount applicable in respect of himself or, if he is a member of a couple or of a polygamous marriage, of the amount applicable in respect of both of them under paragraph 1(1), (2) or (3) of Schedule 2 or, as the case may be, the amount applicable in respect of them under regulation 18 (polygamous marriages); and where regulation 22 (reduction in applicable amounts in certain cases of actual or notional unemployment benefit disqualification) applies, the reference in this head to 90 per cent. of the amount applicable shall be construed as a reference to 90 per cent. of the relevant amount under that regulation reduced by the percentage specified in paragraph (1) or (2), as the case may be, of that regulation,
- (ii) the amount applicable under paragraph 2 of Schedule 2 in respect of any child or young person who is a member of his 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,
- (iii) the amount, if applicable, specified in paragraph 15(2) or (3) of Schedule 2 (pensioner premiums), and
- (iv) any amounts applicable under regulation 17(e) or 18(f) (housing costs);

(b) where the claimant is a resident in board and lodging accommodation, a hostel, a home for persons in need or a nursing home, his weekly applicable amount shall be the aggregate of—

- (i) 90 per cent. of the amount of the allowance for personal expenses prescribed in paragraph 12(a) of Schedule 4 (applicable amounts of persons in homes for persons in need and nursing homes) or paragraph 11(b) of Schedule 5 (applicable amounts of persons in board and lodging accommodation or hostels) whichever is appropriate in respect of him or, if he is a member of a couple or of a polygamous marriage, of the amount applicable in respect of both or all of them; and where regulation 22 (reduction in applicable amounts in certain cases of actual or notional unemployment benefit disqualification) applies, the reference in this head to 90 per cent. of the amount so reduced shall be construed as a reference to 90 per cent. of the relevant amount under that regulation reduced by the percentage specified in paragraph (1) or (2), as the case may be, of that regulation,
- (ii) the amount applicable under paragraph 12(b) to (e) of Schedule 4 or paragraph 11(c) to (f) of Schedule 5, whichever is appropriate, in respect of any child or young person who is a member of his 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,

- (iii) the amount in respect of the weekly charge for his accommodation calculated in accordance with regulation 19 (persons in homes for persons in need or nursing homes) and Schedule 4 or regulation 20 (persons in board and lodging accommodation or hostels) and Schedule 5 whichever is appropriate except any amount in respect of a child or young person who is a member of the family and whose capital, if calculated in accordance with Part V in like manner as for the claimant, except where otherwise provided, would exceed £3,000;
- (c) where the claimant is resident in residential accommodation, his weekly applicable amount shall be the aggregate of—
 - (i) 90 per cent. of the amount in respect of personal expenses as is referred to in column (2) of paragraph 13(1)(a) to (c) and (e) of Schedule 7 (applicable amounts in special cases) applicable to him,
 - (ii) the amount applicable under column (2) of paragraph 13(1)(d) of Schedule 7, in respect of any child or young person who is a member of his 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,
 - (iii) the amount, being 80 per cent. of the sum referred to in column (2) of paragraph 13(1)(a) to (c) and (e) of Schedule 7 in respect of the cost of the residential accommodation.

(2) The period for which a claimant's weekly applicable amount is to be calculated in accordance with paragraph (1) where regulation 70(3) (urgent cases) applies shall be—

- (a) in a case to which paragraph (3)(a) of that regulation applies, any period, or the aggregate of any periods, not exceeding 42 days during any one period of leave to which that regulation applies;
- (b) in a case to which paragraph (3)(b) of that regulation applies—
 - (i) the period ending not later than the date on which that determination is sent to the claimant, or
 - (ii) if he has a right to appeal against the determination under Part II of the 1971 Act, the period ending not later than 28 days after the date on which that determination is sent to him;
- (c) in a case to which paragraph (3)(c) of that regulation applies, the period ending not later than the end of the period for which that appeal is treated as pending under section 33(4) of the 1971 Act;
- (d) in a case to which paragraph (3)(d) of that regulation applies, the period ending not later than—
 - (i) where the application referred to in that regulation is successful, the date on which that determination is sent to the claimant, or
 - (ii) where that application is refused, the date on which he is removed from the United Kingdom;

- (e) in any case to which paragraph (3)(e), (f), (g), (h) or (j) of that regulation applies, the period ending not later than—
 - (i) the date on which the claimant is removed from the United Kingdom, or
 - (ii) where given leave (within the meaning of section 33 of the 1971 Act) to remain in the United Kingdom, or otherwise permitted in writing by the Secretary of State to remain in the United Kingdom, the date on which that leave was given;
- (f) in a case to which paragraph (3)(i) of that regulation applies, the period ending not later than the date on which—
 - (i) leave (within the meaning of section 33 of the 1971 Act) is granted, or
 - (ii) he is removed from the United Kingdom, or
 - (iii) his immigration status is determined by the Secretary of State.

Assessment of income and capital in urgent cases

72.—(1) The claimant's income shall be calculated in accordance with Part V subject to the following modifications—

- (a) any income possessed or treated as possessed by him shall be taken into account in full notwithstanding any provision in that Part disregarding the whole or any part of that income;
- (b) any income to which regulation 53 (calculation of tariff income from capital) applies shall be disregarded;
- (c) income treated as capital by virtue of regulations 24(1) and (2) (treatment of charitable or voluntary payments) and 48(1), (2) and (3) (income treated as capital) shall be taken into account as income;
- (d) in a case to which regulation 70(2)(b) (urgent cases) applies, any income to which regulation 42(3) (notional income) applies shall be disregarded;
- (e) in a case to which regulation 70(2)(c) applies, any income to which regulation 43 (notional earnings of seasonal workers) applies shall be disregarded.

(2) The claimant's capital calculated in accordance with Part V, but including any capital referred to in paragraphs 3, and to the extent that such assets as are referred to in paragraph 6 consist of liquid assets, 6, 7 and 9(b) of Schedule 10 (capital to be disregarded) shall be taken into account in full and the amount of income support which would, but for this paragraph be payable under this regulation, shall be payable only to the extent that it exceeds the amount of that capital.

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

(L.S.)

A. N. Burns

Assistant Secretary

Persons not required to be available for Employment*Lone parents*

1. A person who is a lone parent and responsible for a child who is a member of his household.

Single persons looking after foster children

2. A single claimant or a lone parent with whom a child is boarded out by a Health and Social Services Board or a voluntary organisation within the meaning of the Children and Young Persons Act (Northern Ireland) 1968(a).

Persons temporarily looking after another person

3. A person who is—

- (a) looking after a child because the parent of that child or the person who usually looks after him is ill or is temporarily absent from his home; or
- (b) looking after a member of the family who is temporarily ill.

Persons caring for another person

4. A person who is regularly and substantially engaged in caring for another person if—

- (a) the person doing the caring is in receipt of an invalid care allowance under section 37 of the principal Act(b);
- (b) the person being cared for is in receipt of attendance allowance under section 35 of that Act; or
- (c) the person being cared for has claimed attendance allowance under that section but only for the period up to the date of determination of that claim, or the period of 26 weeks from the date of that claim, whichever date is the earlier.

Persons incapable of work

5. A person who, by reason of some disease or bodily or mental disablement, is incapable of work.

Disabled workers

6. A person who is mentally or physically disabled and whose earning capacity is, by reason of that disability, reduced to 75 per cent. or less of what he would, but for that disability, be reasonably expected to earn.

Disabled students

7. A person who is a student and who, by reason of any mental or physical disability, would, in comparison with other students, be unlikely to obtain employment within a reasonable period of time.

Blind persons

8. A person who is a blind person registered with a Health and Social Services Board, established under Article 16 of the 1972 Order, but a person who has ceased to be so registered on regaining his eyesight shall nevertheless be treated as so registered for a period of 28 weeks following the date on which he ceased to be so registered.

(a) 1968 c. 34 (N.I.)

(b) 1975 c. 15; section 37(3) was amended by Article 38(1) of, and Schedule 10 to, the Social Security (Northern Ireland) Order 1986

Pregnancy

9. A woman who—

- (a) is incapable of work by reason of pregnancy; or
- (b) is or has been pregnant but only for the period commencing 11 weeks before her expected week of confinement and ending 7 weeks after the date on which her pregnancy ends.

Persons in education

10. A person to whom any provision of regulation 13(2)(a) to (e) (circumstances in which persons in relevant education are to be entitled to income support) applies.

Training allowances

11. A person who is in receipt of a training allowance.

Open University students

12. A person who is following an Open University course and is attending, as a requirement of that course, a residential course.

Persons within 10 years of pensionable age

13. A person who is within 10 years of attaining pensionable age and—

- (a) has not been in remunerative work during the previous 10 years; and
- (b) has no prospect of future employment in remunerative work; and
- (c) during that period has not been required to be available for employment in accordance with Article 21(3)(d)(i) of the Order (conditions of entitlement to income support), or would not have been so required had a claim to income support been made by or in respect of him.

Persons aged 60

14. A person aged not less than 60.

Allowances under the Job Release Act 1977

15. A person who is in receipt of an allowance under the Job Release Act 1977(a).

Refugees

16. Notwithstanding that he would otherwise be a student, a person who is a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(b) as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(c) and who—

- (a) is attending for more than 15 hours a week a course for the purpose of learning English so that he may obtain employment; and
- (b) on the date on which that course commenced, had been in Northern Ireland for not more than 12 months,

but only for a period not exceeding 9 months.

Persons required to attend court

17. A person who is required to attend court for any period exceeding 2 days as a justice of the peace, a party to any proceedings, a witness or a juror.

(a) 1977 c. 8
(b) Cmnd. 9171
(c) Cmnd. 3906

Discharged prisoners

18. A person who has been discharged from detention in a prison, remand centre or young offender's centre but only for the period of 7 days commencing with the date of his discharge.

Persons affected by a trade dispute

19. 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 24(8) of the Order (persons affected by a trade dispute and such persons returning to work for the first 15 days).

Persons from abroad

20. A person to whom regulation 70(3) (applicable amount of certain persons from abroad) applies.

Persons in custody

21. A person remanded in, or committed in, custody for trial or for sentencing.

SCHEDULE 2

Regulations 17 and 18

Applicable Amounts

PART I

Regulations 17(a) and (b)
and 18(a), (b) and (c)

PERSONAL ALLOWANCES

1. The weekly amounts specified in column (2) in respect of each person or couple specified in column (1) shall be the weekly amounts specified for the purposes of regulations 17(a) and 18(a) and (b) (applicable amounts and polygamous marriages).

| <i>Column (1)</i> | <i>Column (2)</i> |
|---|---|
| <i>Person or Couple</i> | <i>Amount</i> |
| (1) Single claimant aged— (a) less than 18; (b) not less than 18 but less than 25; (c) not less than 25. | (1) (a) £19·40; (b) £26·05; (c) £33·40. |
| (2) Lone parent aged— (a) less than 18; (b) not less than 18. | (2) (a) £19·40; (b) £33·40. |
| (3) Couple— (a) where both members are aged less than 18; (b) where at least one member is aged not less than 18. | (3) (a) £38·80; (b) £51·45. |

2. The weekly amounts specified in column (2) in respect of each person specified in column (1) shall be the weekly amounts specified for the purposes of regulations 17(b) and 18(c).

| <i>Column (1)</i> | <i>Column (2)</i> |
|--|--|
| <i>Child or Young Person</i> | <i>Amount</i> |
| Person aged— (a) less than 11; (b) not less than 11 but less than 16; (c) not less than 16 but less than 18; (d) not less than 18. | (a) £10·75; (b) £16·10; (c) £19·40; (d) £26·05. |

PART II

Regulations 17(c) and 18(d)

FAMILY PREMIUM

3. The weekly amount for the purposes of regulations 17(c) and 18(d) in respect of a family of which at least one member is a child or young person shall be £6·15.

PART III

Regulations 17(d) and 18(e)

PREMIUMS

4. Except as provided in paragraph 5, the weekly premiums specified in Part IV shall, for the purposes of regulations 17(d) and 18(e), be applicable to a claimant who satisfies the condition specified in paragraphs 8 to 14 in respect of that premium.

5. Subject to paragraph 6, where a claimant satisfies the conditions in respect of more than one premium in this Part, only one premium shall be applicable to him and, if they are different amounts, the higher or highest amount shall apply.

6.—(1) The severe disability premium to which paragraph 13 applies may be applicable in addition to either the higher pensioner premium to which paragraph 10 applies or the disability premium to which paragraph 11 applies.

(2) The disabled child premium to which paragraph 14 applies may be applicable in addition to any other premium which may apply under this Schedule.

7. For the purposes of this Part, once a premium is applicable to a claimant under this Part, a person shall be treated as being in receipt of any benefit—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(a) applies, for any period during which, apart from the provisions of those regulations, he would be in receipt of that benefit; and
- (b) for any period spent by a person in undertaking a course of training or instruction provided or approved by the Department of Economic Development(b) under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(c).

Lone Parent Premium

8. The condition for the lone parent premium is that the claimant is a member of a family but has no partner.

Pensioner Premium

9. The condition for the pensioner premium is that the claimant—

- (a) is a single claimant or lone parent aged not less than 60 but less than 80; or
- (b) has a partner and is, or his partner is, aged not less than 60 but less than 80.

Higher Pensioner Premium

10.—(1) Where the claimant is a single claimant or a lone parent, the condition for the higher pensioner premium is that—

- (a) he is aged not less than 80; or
- (b) he is aged less than 80 but not less than 60, and—
 - (i) the additional condition specified in paragraph 12(1)(a) is satisfied, or

(a) S.R. 1979 No. 242

(b) See S.R. & O. (N.I.) 1964 No. 205, Article 3 for change in style of Ministry of Labour and National Insurance to Ministry of Health and Social Services, S.R. & O. (N.I.) 1973 No. 504, Article 6 for transfer of functions from Ministry of Health and Social Services to Department of Manpower Services and S.I. 1982/846 (N.I. 11), Article 3 for renaming the Department of Manpower Services the Department of Economic Development

(c) 1950 c. 29 (N.I.)

- (ii) he was entitled to income support and the disability premium was applicable to him in respect of a benefit week within 8 weeks of his 60th birthday and he has, subject to sub-paragraph (3), remained continuously entitled to income support since attaining that age.
- (2) Where the claimant has a partner, the condition is that—
- (a) he or his partner is aged not less than 80; or
- (b) he or his partner is aged less than 80 but not less than 60 and either—
- (i) the additional condition specified in paragraph 12(1)(a) is satisfied by whichever of them is aged not less than 60, or
- (ii) he was entitled to income support and the disability premium was applicable to him in respect of a benefit week within 8 weeks of his 60th birthday and he has, subject to sub-paragraph (3), remained continuously entitled to income support since attaining that age.
- (3) For the purposes of this paragraph and paragraph 12—
- (a) once the higher pensioner premium is applicable to a claimant, if he then ceases, for a period of 8 weeks or less, to be entitled to income support, he shall, on becoming re-entitled to income support, thereafter be treated as having been continuously entitled thereto;
- (b) in so far as sub-paragraphs (1)(b)(ii) and (2)(b)(ii) are concerned, if a claimant ceases to be entitled to income support for a period not exceeding 8 weeks which includes his 60th birthday, he shall, on becoming re-entitled to income support, thereafter be treated as having been continuously entitled thereto.

Disability Premium

11. The condition for the disability premium is that—
- (a) where the claimant is a single claimant or a lone parent, he is aged less than 60 and the additional condition specified in paragraph 12 is satisfied; or
- (b) where the claimant has a partner, either—
- (i) the claimant is aged less than 60 and the additional condition specified in paragraph 12(1)(a) or (b) is satisfied by him, or
- (ii) his partner is aged less than 60 and the additional condition specified in paragraph 12(1)(a) is satisfied by his partner.

Additional condition for the Higher Pensioner and Disability Premiums

- 12.—(1) Subject to sub-paragraph (2) and paragraph 7, the additional condition referred to in paragraphs 10 and 11 is that—
- (a) the claimant or, as the case may be, his partner—
- (i) is in receipt of one or more of the following benefits: attendance allowance, mobility allowance, mobility supplement, invalidity pension under section 15 of the principal Act(a), or severe disablement allowance under section 36 of that Act(b),
- (ii) is provided by the Department with an invalid carriage or other vehicle under Article 30(1) of the 1972 Order or receives payments by way of grant from the Department under Article 30(3) of that Order, or

(a) Section 15 was amended by paragraph 22 of Schedule 5 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)), paragraph 1 of Schedule 1 and paragraph 6 of Schedule 3 to the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) and paragraph 6 of Schedule 4 to the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16))

(b) Section 36 was substituted by Article 5(1) of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)) and subsection (4A) of that section was inserted by paragraph 2 of Schedule 4 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16))

- (iii) has been certified as blind and in consequence is registered as blind in a register maintained by or on behalf of a Health and Social Services Board, established under Article 16 of that Order;
- (b) the claimant is and has, in respect of a period of not less than 28 weeks, been treated as having been incapable of work for the purposes of one or more of the provisions of the principal Act or Part II of the Social Security (Northern Ireland) Order 1982(a) or, if he was in Great Britain for the whole or part of that period, was treated as having been incapable of work for the purposes of one or more of the comparable Great Britain provisions; or
- (c) the claimant, or as the case may be, his partner, was in receipt of either—
- (i) mobility allowance or invalidity pension under section 15 of the principal Act when entitlement to that benefit ceased solely on account of the maximum age for its payment being reached and the claimant has since remained continuously entitled to income support and, if the mobility allowance or invalidity pension was payable to his partner, the partner is still alive, or
 - (ii) except where paragraph 1(a), (b), (c)(ii) or (d)(ii) of Schedule 7 (patients) applies, attendance allowance which is no longer in payment solely on account of the claimant or, as the case may be, his partner having undergone or having been treated as undergoing treatment for a period of more than 4 weeks by virtue of regulation 5 of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1987(b),
- and, in either case, the higher pensioner premium or disability premium has been applicable to the claimant or his partner.

(2) For the purposes of sub-paragraph (1)(a)(iii), a person who has ceased to be registered as blind on regaining his eyesight shall nevertheless be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(3) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a claimant by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable of work for the purposes of the provisions specified in that provision he shall, on again becoming so incapable of work, immediately thereafter be treated as satisfying the condition in sub-paragraph (1)(b).

(4) For the purposes of sub-paragraph (1)(c), once the higher pensioner premium is applicable to the claimant by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be entitled to income support, he shall on again becoming so entitled to income support, immediately thereafter be treated as satisfying the condition in sub-paragraph (1)(c).

Severe Disability Premium

13.—(1) The condition for the severe disability premium is that the claimant is a severely disabled person.

(2) For the purposes of sub-paragraph (1), a claimant shall be treated as being a severely disabled person if, and only if—

- (a) in the case of a single claimant or a lone parent—
- (i) he is in receipt of attendance allowance,
 - (ii) subject to sub-paragraph (3), he has no non-dependants aged 18 or over residing with him, and

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

(b) S.R. 1987 No. 413

- (iii) no one is in receipt of an invalid care allowance under section 37 of the principal Act(a) in respect of caring for him;
- (b) where he has a partner—
- (i) he is in receipt of attendance allowance,
 - (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt thereof, and
 - (iii) subject to sub-paragraph (3), he has no non-dependants aged 18 or over residing with him,
- and, either there is someone in receipt of an invalid care allowance in respect of caring for only one of the couple or, in the case of a polygamous marriage, for one or more but not all the partners of the marriage, or, as the case may be, there is no one in receipt of such an allowance in respect of caring for either member of the couple or any partner of the polygamous marriage.
- (3) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii), no account shall be taken of—
- (a) a person receiving attendance allowance;
 - (b) a person to whom regulation 3(3) (non-dependants) applies; or
 - (c) subject to sub-paragraph (4), a person who joins the claimant's household for the first time in order to care for the claimant or his partner and immediately before so joining the claimant or his partner was treated as a severely disabled person.
- (4) Sub-paragraph (3)(c) shall apply only for the first 12 weeks following the date on which the person to whom that provision applies first joins the claimant's household.

Disabled Child Premium

14. The condition is that a child or young person for whom the claimant or a partner of his is responsible and who is a member of the claimant's household—
- (a) has no capital or capital which, if calculated in accordance with Part V of these regulations in like manner as for the claimant, except where otherwise provided, would not exceed £3,000; and
 - (b) is in receipt of attendance allowance or mobility allowance or both or is no longer in receipt of that allowance because he is a patient provided that the child or young person continues to be a member of the family; or
 - (c) is blind or treated as blind within the meaning of paragraph 12(1)(a)(iii) and (2).

PART IV

WEEKLY AMOUNTS OF PREMIUMS SPECIFIED IN PART III

| <i>Premium</i> | <i>Amount</i> |
|---|-----------------|
| 15.—(1) Lone Parent Premium. | (1) £3·70. |
| (2) Pensioner Premium— | |
| (a) where the claimant satisfies the condition in paragraph 9(a); | (2) (a) £10·65; |

(a) Section 37 was amended by Schedule 10 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

| <i>Premium</i> | <i>Amount</i> |
|--|---|
| (b) where the claimant satisfies the condition in paragraph 9(b). | (b) £16.25. |
| (3) Higher Pensioner Premium— | |
| (a) where the claimant satisfies the condition in paragraph 10(1)(a) or (b); | (3) (a) £13.05; |
| (b) where the claimant satisfies the condition in paragraph 10(2)(a) or (b). | (b) £18.60. |
| (4) Disability Premium— | |
| (a) where the claimant satisfies the condition in paragraph 11(a); | (4) (a) £13.05; |
| (b) where the claimant satisfies the condition in paragraph 11(b). | (b) £18.60. |
| (5) Severe Disability Premium— | |
| (a) where the claimant satisfies the condition in paragraph 13(2)(a); | (5) (a) £24.75; |
| (b) where the claimant satisfies the condition in paragraph 13(2)(b)— | |
| (i) if there is someone in receipt of an invalid care allowance, | (b) (i) £24.75, |
| (ii) if no one is in receipt of such an allowance. | (ii) £49.50. |
| (6) Disabled Child Premium. | (6) £6.15 in respect of each child or young person in respect of whom the condition specified in paragraph 14 is satisfied. |

PART V

ROUNDING OF FRACTIONS

16. Where income support is awarded for a period which is not a complete benefit week and the applicable amount in respect of that period results in an amount which includes a fraction of a penny that fraction shall be treated as a penny.

Housing Costs*Eligible Housing Costs*

1. Subject to paragraphs 2 to 12, the amounts which may be applicable to a person in respect of mortgage interest payments or other prescribed housing costs under regulation 17(e) or 18(f) (applicable amounts) are—

- (a) mortgage interest payments;
- (b) interest on loans for repairs and improvements to the dwelling occupied as the home;
- (c) ground rent;
- (d) service charges;
- (e) where the dwelling occupied as the home is a tent, payments in respect of the tent and the site on which it stands;
- (f) payments analogous to those mentioned in this paragraph.

Basic condition of entitlement to housing costs

2. Subject to paragraphs 3 to 12, the housing costs referred to in paragraph 1 shall be met where the claimant, or if he is one of a family, he or any member of his family is treated as responsible for the expenditure to which that cost relates in respect of the dwelling occupied as the home which he or any member of his family is treated as occupying.

Circumstances in which a person is treated as responsible for housing costs

3.—(1) A person is to be treated as responsible for the expenditure which relates to housing costs where—

- (a) he or his partner is liable to meet those costs other than to a member of the same household;
- (b) because the person liable to meet those costs is not doing so, he has to meet those costs in order to continue to live in the dwelling occupied as the home and either he was formerly the partner of the person liable, or he is some other person whom it is reasonable to treat as liable to meet the cost;
- (c) he in practice shares those costs with other members of his household, other than close relatives of his or his partner, at least one of whom either is responsible under the preceding provisions of this paragraph or has an equivalent responsibility for housing benefit expenditure and for which it is reasonable in the circumstances to treat him as sharing responsibility.

(2) Where any one or more, but not all, members of the claimant's family are affected by a trade dispute, the housing costs shall be treated as those of those members of the family not so affected.

Circumstances in which a person is or is not to be treated as occupying a dwelling as his home

4.—(1) Subject to sub-paragraphs (2) to (9), a person shall be treated as occupying as his home the dwelling normally occupied as his home by himself or, if he is a member of a family, by himself and his family and he shall not be treated as occupying any other dwelling as his home.

(2) In determining whether a dwelling is the dwelling normally occupied as the claimant's home for the purposes of sub-paragraph (1) regard shall be had to any other dwelling occupied by the claimant or by him and his family whether or not that dwelling is in Northern Ireland.

(3) Subject to sub-paragraph (4), where a single claimant or a lone parent is a student or is on a training course and is liable to make payments (including payments of mortgage interest or analogous payments) in respect of either (but not both) the dwelling which he occupies for the purpose of attending his course of study or his training course or, as the case may be, the dwelling which he occupies when not attending his course, he shall be treated as occupying as his home the dwelling in respect of which he is liable to make payments.

(4) A full-time student shall not be treated as occupying a dwelling as his home for any week of absence from it, other than an absence occasioned by the need to enter hospital for treatment, outside the period of study, if the main purpose of his occupation during the period of study would be to facilitate attendance on his course.

(5) Where a claimant has been required to move into temporary accommodation by reason of essential repairs being carried out to the dwelling normally occupied as his home and he is liable to make payments (including payments of mortgage interest or analogous payments) in respect of either (but not both) the dwelling normally occupied or the temporary accommodation, he shall be treated as occupying as his home the dwelling in respect of which he is liable to make payments.

(6) Where a person is liable to make payments in respect of 2 (but not more than 2) dwellings, he shall be treated as occupying both dwellings as his home only—

(a) where he has left and remains absent from the former dwelling occupied as the home through fear of violence in that dwelling or by a former member of his family and it is reasonable that housing costs should be met in respect of both his former dwelling and his present dwelling occupied as the home;

(b) in the case of a couple or a member of a polygamous marriage where a partner is a student or is on a training course and it is unavoidable that he or they should occupy 2 separate dwellings and reasonable that housing costs should be met in respect of both dwellings; or

(c) in the case where a person has moved into a new dwelling occupied as the home, except where sub-paragraph (5) applies, for a period not exceeding 4 benefit weeks if his liability to make payments in respect of 2 dwellings is unavoidable.

(7) Where a person—

(a) has moved into a dwelling and was liable to make payments in respect of that dwelling before moving in;

(b) had claimed income support before moving in and either that claim has not yet been determined or, it has been determined but an amount has not been included under this Schedule and if the claim has been refused a further claim has been made within 4 weeks of the date on which the claimant moved into the new dwelling occupied as the home; and

(c) the delay in moving into the dwelling in respect of which there was liability to make payments before moving in was reasonable and—

(i) that delay was necessary in order to adapt the dwelling to meet the disablement needs of the claimant or any member of his family,

(ii) the move was delayed pending the outcome of an application under Part IV of the Order for a social fund payment to meet a need arising out of the move or in connection with setting up the home in the dwelling and either a member of the claimant's family is aged 5 or under or the claimant's applicable amount includes a premium under paragraph 9, 10, 11, 13 or 14 of Schedule 2, or

(iii) the person became liable to make payments in respect of the dwelling while he was a patient or in residential accommodation,

he shall be treated as occupying the dwelling as his home for any period not exceeding 4 weeks immediately prior to the date on which he moved into the dwelling and in respect of which he was liable to make payments.

(8) A person shall be treated as occupying a dwelling as his home for a period not exceeding 52 weeks while he is temporarily absent therefrom only if—

- (a) he intends to return to occupy the dwelling as his home;
- (b) the part of the dwelling normally occupied by him has not been let or, as the case may be, sub-let; and
- (c) the period of absence is unlikely to exceed 52 weeks, or, in exceptional circumstances, (for example where the person is in hospital or otherwise has no control over the length of his absence) is unlikely substantially to exceed that period.

(9) In this paragraph—

- (a) “patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;
- (b) “residential accommodation” means accommodation—
 - (i) provided under Article 15 or 36 of the 1972 Order(a),
 - (ii) under Article 7 or 8 of that Order (prevention of illness, care and after-care and care of mothers and young children),
 - (iii) which is a home for persons in need within the meaning of that expression in regulation 19(2) (persons in homes for persons in need or nursing homes), or
 - (iv) which is a nursing home;
- (c) “training course” means such a course as is referred to in sub-paragraph (c) of the definition of training allowance in regulation 2(1) (interpretation).

Circumstances in which no amount of housing costs may be met

5. No amount may be met under the provisions of this Schedule—

- (a) in respect of housing benefit expenditure; or
- (b) where the claimant is in accommodation to which either regulation 19 (applicable amounts for persons in homes for persons in need or nursing homes), or 20 (applicable amounts for persons in board and lodging accommodation or hostels) applies, unless his absence from the dwelling occupied as his home in such accommodation is only temporary within the meaning of paragraph 4(8).

Apportionment of housing costs

6.—(1) Where for the purposes of Article 4 of, and Schedule 5 to, the Rates (Northern Ireland) Order 1977(b), it appears to the Department of the Environment, or it is deemed in pursuance of paragraphs 2 to 4 of that Schedule that the hereditament includes the home and that only a proportion of the rateable value of the hereditament is attributable to use for the purpose of a private dwelling, the amounts applicable under this Schedule shall be such proportion of the amounts applicable in respect of the hereditament or premises as a whole as is equal to the proportion of the rateable value of the hereditament attributable to the part of the hereditament used for the purposes of a private tenancy.

(a) Article 15 was extended by Article 11(1) of the Health and Personal Social Services (Northern Ireland) Order 1978 (S.I. 1978/1907 (N.I. 26)) and sections 1 and 2 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 53) and Article 36 was amended by Article 11(2) of S.I. 1978/1907 (N.I. 26)

(b) S.I. 1977/2157 (N.I. 28)

(2) Where responsibility for expenditure which relates to housing costs met under this Schedule is shared, the amounts applicable shall be calculated by reference to the appropriate proportion of that expenditure for which the claimant is responsible.

Interest on loans to acquire an interest in the dwelling occupied as the home

7.—(1) Subject to sub-paragraphs (2) to (9), the following amounts shall be met under this paragraph—

- (a) if the claimant or, if he is a member of a couple, or if a member of a polygamous marriage, he or any partner of his is aged 60 or over, 100 per cent. of the eligible interest in his case;
- (b) if the claimant or, if he is a member of a couple, or if a member of a polygamous marriage, he and any partner of his are aged under 60—
 - (i) where the claimant has been in receipt of income support in respect of a continuous period of not less than 16 weeks, 100 per cent. of the eligible interest in his case,
 - (ii) in any other case, 50 per cent. of the eligible interest in that case.

(2) Where in a case to which sub-paragraph (1)(b)(ii) applies—

- (a) either—
 - (i) the claim for income support is refused, or
 - (ii) an award of income support is terminated on appeal or review, solely because the claimant's income exceeds his applicable amount by virtue of the fact that only 50 per cent. of the eligible interest in his case is to be met under sub-paragraph (1)(b)(ii); and
- (b) the claimant or any partner of his makes a further claim no later than 20 weeks after—
 - (i) where the original claim for income support was refused, the date of that claim, or
 - (ii) where an award of income support was terminated on appeal or review, the date of the claim in respect of which that award was made,

the amount to be met under this paragraph commencing on a date not before the expiry of 16 weeks from the date specified in head (b)(i) or (ii), as the case may be, shall be 100 per cent. of the eligible interest in that case and until that date shall be the amount specified in sub-paragraph (1)(b)(ii).

(3) Subject to sub-paragraphs (4) to (6), in this paragraph "eligible interest" means the amount of interest on a loan, whether or not secured by way of a mortgage taken out to defray money applied for the purpose of—

- (a) acquiring an interest in the dwelling occupied as the home; or
- (b) paying off another loan but only to the extent that interest on that other loan would have been eligible interest had the loan not been paid off.

(4) Subject to sub-paragraphs (5) and (6) and paragraph 6, the amount of eligible interest in any case shall be the amount, calculated on a weekly basis, of—

- (a) where, or in so far as, section 26 of the Finance Act 1982(a) (deduction of tax from certain loan interest) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax thereon at the basic rate for the year of assessment in which the payment of interest becomes due;
- (b) in any other case the interest which is payable on the loan without deduction of such a sum.

(a) 1982 c. 39

(5) Where a loan is applied only in part for a purpose specified in sub-paragraph (3), only such proportion of the interest thereon as is equal to the proportion of the loan applied for that purpose shall qualify as eligible interest.

(6) Where, under the terms of a loan taken out for a purpose specified in sub-paragraph (3), interest is payable on accumulated arrears of interest (whether or not those arrears have been consolidated with the outstanding capital), the amount of such interest shall be met under this paragraph as if it were eligible interest but only in so far as it represents interest on arrears incurred during any period—

- (a) when sub-paragraph (1)(b)(ii) applied in that case; or
- (b) when the claimant was not entitled to income support which fell within the period of 20 weeks specified in sub-paragraph (2)(b),

and, in either case, only to the extent that arrears do not exceed 50 per cent. of the eligible interest that otherwise would have been payable during the period in question.

(7) Where a person who was formerly one of a couple or a polygamous marriage—

- (a) has taken out, either solely or jointly with his former partner, a loan secured on the dwelling occupied as the home for a purpose other than one specified in sub-paragraph (3); and
- (b) has left the dwelling occupied as the home and either cannot or will not pay the interest on the loan,

and, if that person's former partner has to pay the interest on the loan in order to continue to live in the dwelling occupied as the home, there shall be met in respect of the former partner under this paragraph the amount of interest on the loan calculated as if it were a loan taken out for a purpose specified in sub-paragraph (3).

(8) Where an amount is met under this paragraph, if, notwithstanding that the amount of interest payable is reduced by virtue of—

- (a) a reduction in interest rates; or
- (b) a reduction in the amount of loan capital outstanding,

the amount of instalments which the borrower is liable to pay remains constant, the amount met shall not be adjusted to take account of the new amount of interest payable except where a determination is subsequently reviewed under section 104(1)(b) of the principal Act(a) (review of decisions).

(9) For the purposes of sub-paragraph (1)—

- (a) a person shall be treated as being in receipt of income support during the following periods—
 - (i) any period in respect of which it was subsequently held on appeal or review that he was so entitled, and
 - (ii) any period of 8 weeks or less in respect of which he was not in receipt of income support and which fell immediately between periods in respect of which he was in receipt thereof or to which head (a)(i) applies;
- (b) a person shall be treated as not being in receipt of income support during any period other than a period to which head (a)(ii) applies in respect of which it is subsequently held on appeal or review that he was not so entitled.
- (c) where the claimant—
 - (i) was a member of a couple or a polygamous marriage,

(a) Section 104 is applied by Article 53(3) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)) and amended by paragraph 9 of Schedule 5 to that Order

- (ii) his partner was, in respect of a past period, in receipt of income support for himself and the claimant,
 - (iii) the claimant is no longer a member of that couple or polygamous marriage, and
 - (iv) the claimant made his claim for income support within 8 weeks of ceasing to be a member of that couple or polygamous marriage, he shall be treated as having been in receipt of income support for the same period as his former partner had been or had been treated, for the purposes of sub-paragraph (1), as having been;
- (d) where the claimant's partner's applicable amount was determined in accordance with paragraph 1(1) (single claimants) or paragraph 1(2) (lone parent) of Schedule 2 (applicable amounts) in respect of a past period, provided that the claim was made within 8 weeks of the claimant and his partner becoming one of a couple or polygamous marriage, the claimant shall be treated as having been in receipt of income support for the same period as his partner had been or had been treated, for the purposes of sub-paragraph (1), as having been;
- (e) where the claimant is a member of a couple or a polygamous marriage and his partner was, in respect of a past period in receipt of income support for himself and the claimant, and the claimant has become in receipt of income support as a result of an election by the members of the couple or polygamous marriage, he shall be treated as having been in receipt of income support for the same period as his partner had been or had been treated, for the purposes of sub-paragraph (1), as having been.

Interest on loans for repairs and improvements to the dwelling occupied as the home

8.—(1) Subject to sub-paragraph (2), there shall be met under this paragraph an amount in respect of interest payable on a loan which is taken out, with or without security, for the purpose of—

- (a) carrying out repairs or improvements to the dwelling occupied as the home; or
 - (b) paying off another loan but only to the extent that interest on the other loan would have been met under this paragraph had the loan not been paid off,
- and which is used for that purpose or is to be so used within 6 months of the date of receipt or such further period as is reasonable, and the amount to be met under this paragraph shall be calculated as if the loan were a loan to which paragraph 7 applied.

(2) Subject to sub-paragraph (4), where the claimant has capital in excess of £500, the excess shall be set against the amount or the aggregate of the amounts borrowed and interest allowed only by reference to any balance.

(3) In this paragraph “repairs and improvements” means major repairs necessary to maintain the fabric of the dwelling occupied as the home and any of the following measures undertaken with a view to improving its fitness for occupation—

- (a) installation of a fixed bath, shower, wash basin, sink or lavatory and necessary associated plumbing;
- (b) damp-proofing measures;
- (c) provision or improvement of ventilation and natural lighting;
- (d) provision of electric lighting and sockets;
- (e) provision or improvement of drainage facilities;
- (f) improvement in the structural condition of the dwelling occupied as the home;
- (g) improvements to the facilities for storing, preparing and cooking food;

- (h) provision of heating, including central heating;
- (i) provision of storage facilities for fuel and refuse;
- (j) improvements to the insulation of the dwelling occupied as the home;
- (k) other improvements which are reasonable in the circumstances.

(4) For the purposes of sub-paragraph (2) no account shall be taken of capital which is disregarded by virtue of paragraph 1, 2, 4 to 6, 8(b), 9(a), 10 to 18 or 20 of Schedule 10 (capital to be disregarded).

Other housing costs

9.—(1) There shall be met under this paragraph the amounts, calculated on a weekly basis, in respect of the housing costs specified in paragraph 1(c) to (f) subject to the deductions specified in sub-paragraph (2).

(2) Subject to sub-paragraph (3), the deductions to be made from the weekly amounts to be met under this paragraph are—

- (a) where the costs are inclusive of any of the items mentioned in paragraph 5(2) of Schedule 1 to the Housing Benefit (General) Regulations (Northern Ireland) 1987(a) (payment in respect of fuel charges), the deductions prescribed in that paragraph unless the claimant provides evidence on which the actual or approximate amount of the service charge for fuel may be estimated, in which case the estimated amounts;
- (b) where the costs are inclusive of ineligible service charges within the meaning of paragraph 1 of Schedule 1 to the said regulations (ineligible service charges) the amounts attributable to those ineligible service charges or where that amount is not separated from or separately identified within the housing costs to be met under this paragraph, such part of the payments made in respect of those housing costs which are fairly attributable to the provision of those ineligible services having regard to the costs of comparable services.

(3) Where arrangements are made for the housing costs mentioned in paragraph 1(c) to (e), payable for a year, to be paid for 53 weeks, or irregularly, or so that no such costs are payable for or collected in certain periods, or so that the costs for different periods in the year are of different amounts, the weekly amount shall be the amount payable for the year divided by 52.

(4) Where as compensation for work carried out by way of reasonable repairs or redecoration which are not normally the responsibility of the claimant or other member of his family, payment of the costs mentioned in paragraph 1(c) to (e) are waived, they shall, for a period not exceeding 8 weeks, be treated as payable.

Restriction on meeting housing costs under this Schedule

10.—(1) Subject to sub-paragraph (2), where—

- (a) the dwelling occupied as the home is occupied with security of tenure, that is to say—
 - (i) under a protected or statutory tenancy for the purposes of the Rent (Northern Ireland) Order 1978(b) excluding any case in which the tenant has been given a notice to which any Case in Part II of Schedule 4 to that Order (cases in which Court must order possession) applies,

(a) S.R. 1987 No. 461

(b) S.I. 1978/1050 (N.I. 20)

- (ii) under a secure tenancy for the purposes of Chapter II of Part II of the Housing (Northern Ireland) Order 1983(a) (security of tenure and rights of secure tenants);
- (b) the claimant or, if he is a member of a family, any member of the family acquires some other interest in the dwelling occupied as the home; and
- (c) in consequence of the acquisition the aggregate of any amounts which would, but for this paragraph, be applicable under paragraphs 7, 8 and 9 exceed the amount of the eligible rent for the purposes of regulation 10 of the Housing Benefit (General) Regulations (Northern Ireland) 1987 (rent) immediately before the acquisition,

the aggregate amount so applicable shall initially be restricted to the amount of the eligible rent immediately before the acquisition and shall be increased subsequently only to the extent that this is necessary to take account of any increase, after the date of the acquisition, in expenditure on any housing costs.

(2) Sub-paragraph (1)—

- (a) shall not apply where the claimant or the member of the family became liable to complete the acquisition at a time when income support was not payable in respect of him;
- (b) shall cease to apply if its application becomes inappropriate by reason of any major change in the circumstances of the family affecting their ability to meet expenditure on housing costs;
- (c) shall cease to apply where income support ceases to be payable in respect of the claimant or his family except that it shall re-apply wherever income support again becomes payable within a period of 8 weeks or less.

(3) Where the amounts to be met under paragraphs 7 to 9 and, subject to any deduction applicable under paragraph 11, are excessive, they shall be subject to restriction in accordance with sub-paragraphs (4) to (6).

(4) Subject to sub-paragraphs (5) and (6), the amounts to be met shall be regarded as excessive and shall be restricted and the excess not allowed, if and to the extent that—

- (a) the dwelling occupied as the home, excluding any part which is let or is normally occupied by persons in board and lodging accommodation, is larger than is required by the claimant and his family and any child or young person to whom regulation 16(4) (foster children) applies and any other non-dependants having regard, in particular, to suitable alternative accommodation occupied by a household of the same size;
- (b) the immediate area in which the dwelling occupied as the home is located is more expensive than other areas in which suitable alternative accommodation exists; or
- (c) the outgoings of the dwelling occupied as the home in respect of which the amounts to be met under paragraphs 7 to 9 are higher than the outgoings of suitable alternative accommodation in the area.

(5) Where, having regard to the relevant factors, it is not reasonable to expect the claimant and his family to seek alternative cheaper accommodation no restrictions shall be made under this paragraph.

(6) Where sub-paragraph (5) does not apply and the claimant (or other member of the family) was able to meet the financial commitments for the dwelling occupied as the home when these were entered into, no restriction shall be made under this

paragraph during the first 6 months of any period of entitlement to income support nor during the next 6 months if and so long as the claimant uses his best endeavours to obtain cheaper accommodation.

(7) In this paragraph "the relevant factors" are—

- (a) the availability of suitable accommodation and the level of housing costs in the area; and
- (b) the circumstances of the family including in particular the age and state of health of its members, the employment prospects of the claimant and, where a change in accommodation is likely to result in a change of school, the effect on the education of any child or young person who is a member of his family, or any child or young person who is not treated as part of his family by virtue of regulation 16(4) (foster children).

Non-dependant deductions

11.—(1) Subject to sub-paragraphs (2) to (7), the following deductions from the amount to be met under the preceding paragraphs in respect of housing costs shall be made in respect of a non-dependant—

- (a) aged 18 or more who is in remunerative work or is a person to whom regulation 3(3) (non-dependants) applies, £8·20;
- (b) aged 18 or more to whom head (a) does not apply, £3·45.

(2) In the case of a non-dependant aged 18 or more to whom sub-paragraph (1)(a) applies because he is in remunerative work, where the claimant satisfies the adjudication officer that the non-dependant's gross weekly income is less than £49·20, the deduction to be made under this paragraph shall be the deduction specified in sub-paragraph (1)(b) appropriate in his case.

(3) Only one deduction shall be made under this paragraph in respect of a couple or, as the case may be, the members of a polygamous marriage, and where a different amount or no amount would, but for this sub-paragraph, fall to be deducted in respect of the members of the couple or polygamous marriage as individuals, the higher deduction shall be made.

(4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard shall be had, for the purpose of sub-paragraph (2) to the couple's or, as the case may be, all the members of the polygamous marriage's, joint weekly income.

(5) Where a person is a non-dependant in respect of more than one joint occupier of a dwelling (except where the joint occupiers are a couple or members of a polygamous marriage), the deduction in respect of that non-dependant shall be apportioned between the joint occupiers (the amount so apportioned being rounded to the nearest penny) having regard to the number of joint occupiers and the proportion of the housing costs in respect of the dwelling occupied as the home payable by each of them.

(6) No deduction shall be made in respect of any non-dependants occupying the dwelling occupied as the home of the claimant, if the claimant or any partner of his is—

- (a) blind or treated as blind by virtue of paragraph 12 of Schedule 2 (additional condition for the higher pensioner and disability premiums); or
- (b) receiving an attendance allowance.

(7) No deduction shall be made in respect of a non-dependant—

- (a) if, although he resides with the claimant, it appears to the adjudication officer that the dwelling occupied as his home is normally elsewhere;

- (b) if he is in receipt of a training allowance paid in connection with a Youth Training Programme established under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(a) and he is not a person to whom regulation 3(3) applies;
- (c) if he is a full-time student during a period of study and he is not a person to whom regulation 3(3) applies;
- (d) if he is aged under 25 and in receipt of income support and he is not a person to whom regulation 3(3) applies; or
- (e) in respect of whom a deduction in the calculation of a rent rebate or allowance falls to be made under regulation 63 of the Housing Benefit (General) Regulations (Northern Ireland) 1987 (non-dependant deductions).

Rounding of fractions

12. Where any calculation made under this Schedule results in a fraction of a penny, that fraction shall be treated as a penny.

(a) 1950 c. 29 (N.I.)

PART I

APPLICABLE AMOUNTS OF PERSONS IN HOMES FOR PERSONS IN NEED AND
NURSING HOMES

1.—(1) Subject to sub-paragraph (2), the weekly applicable amount of a claimant to whom regulation 19 applies shall be the aggregate of—

- (a) subject to paragraph 3, the weekly charge for the accommodation, including all meals and services, provided for him or, if he is a member of a family, for him and his family increased, where appropriate, in accordance with paragraph 2 but, except in a case to which paragraph 11 applies, subject to the maximum determined in accordance with paragraph 5;
- (b) a weekly amount for personal expenses for him and, if he is a member of a family, for each member of his family determined in accordance with paragraph 12; and
- (c) where he is only temporarily in such accommodation any amount applicable under regulation 17(e) or 18(f) (housing costs) in respect of the dwelling normally occupied as the home.

(2) No amount shall be included in respect of any child or young person who is a member of the claimant's family if the capital of that child or young person calculated in accordance with Part V (income and capital) in like manner as for the claimant, except where otherwise provided, would exceed £3,000.

2.—(1) Where, in addition to the weekly charge for accommodation, a separate charge is made for the provision of heating, attention in connection with bodily functions, supervision, extra baths, laundry or a special diet needed for a medical reason, the weekly charge for the purpose of paragraph 1(1)(a) shall be increased by the amount of that charge.

(2) Where the weekly charge for accommodation does not include the provision of all meals, it shall, for the purpose of paragraph 1(1)(a), be increased in respect of the claimant or, if he is a member of a family, in respect of each member of his family by the following amount—

- (a) if the meals can be purchased within the home for persons in need or nursing home, the amount equal to the actual cost of the meals, calculated on a weekly basis; or
- (b) if the meals cannot be so purchased, the amount calculated on a weekly basis—
 - (i) for breakfast, at a daily rate of £1.10,
 - (ii) for a midday meal, at a daily rate of £1.55, and
 - (iii) for an evening meal, at a daily rate of £1.55,

except that, if some or all of the meals are normally provided free of charge or at a reduced rate, the amount shall be reduced to take account of the lower charge or reduction.

3. Where any part of the weekly charge for the accommodation is met by housing benefit, an amount equal to the part so met shall be deducted from the amount calculated in accordance with paragraph 1(1)(a).

4. Where a payment is to be made in respect of a period of less than one benefit week, the applicable amount of the claimant under regulation 19 and this Schedule.

shall include the weekly amount to which paragraph 1(1)(a) applies, other than the increase for meals met under paragraph 2(2) which shall be met only in respect of the number of days falling in that period, if the weekly charge for the accommodation falls to be paid during that period.

5.—(1) Subject to paragraph 11, the maximum referred to in paragraph 1(1)(a) shall be—

- (a) in the case of a single claimant, the appropriate amount in respect of that claimant specified in or determined in accordance with paragraphs 6 to 10;
- (b) where the claimant is a member of a family, the aggregate of the following amounts—
 - (i) in respect of each member of the family aged under 11, 1½ times the amount specified in paragraph 2(a) of Schedule 2, and
 - (ii) in respect of each other member of the family, the appropriate amount specified in or determined in accordance with paragraphs 6 to 10.

(2) The maximum amount in respect of a member of the family aged under 11 calculated in the manner referred to in sub-paragraph (1)(b)(i) shall be rounded to the nearest multiple of 5p by treating an odd amount of 2.5p or more as 5p and by disregarding an odd amount of less than 2.5p.

Homes for persons in need

6.—(1) Subject to sub-paragraph (2) and paragraphs 8 to 10, where the accommodation provided for the claimant is a home for persons in need, for persons in need of personal care by virtue of—

- (a) age and infirmity, the appropriate amount shall be £130.00 per week;
- (b) past or present mental disorder but excluding mental handicap, the appropriate amount shall be £130.00 per week;
- (c) past or present drug or alcohol dependence, the appropriate amount shall be £130.00 per week;
- (d) mental handicap, the appropriate amount shall be £160.00 per week;
- (e) physical disablement, the appropriate amount shall be—
 - (i) in the case of a person to whom paragraph 8 applies, £190.00 per week, or
 - (ii) in any other case £130.00 per week.

(2) Where the claimant is over pensionable age and—

- (a) he is blind; or
- (b) there is in respect of him a certificate, issued by the Attendance Allowance Board under section 35(2) of the principal Act(a), which states that he has satisfied or is likely to satisfy both the conditions mentioned in section 35(1) of the principal Act; or
- (c) he is in receipt of any payment based on need for attendance which is payable—
 - (i) under section 61 of the principal Act(b), or

(a) Section 35(2) was amended by Article 3(2) of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) and subsection (2A) was inserted by Article 3(3) of that Order

(b) Subsections (3) and (4) of section 61 were inserted by paragraph 6 of Schedule 3 to the Social Security (Northern Ireland) Order 1986

- (ii) by virtue of Article 14 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(a) or Article 14 of the Personal Injuries (Civilians) Scheme 1983(b),

the appropriate amount shall, except where sub-paragraph (1)(d) or (e)(i) applies, be £155·00 per week.

Nursing Homes

7. Subject to paragraphs 8 to 10, where the accommodation provided for the claimant is a nursing home for persons in need of personal care by virtue of—

- (a) past or present mental disorder but excluding mental handicap, the appropriate amount shall be £185·00 per week;
- (b) mental handicap, the appropriate amount shall be £200·00 per week;
- (c) past or present drug or alcohol dependence, the appropriate amount shall be £185·00 per week;
- (d) physical disablement, the appropriate amount shall be—
 - (i) in the case of a person to whom paragraph 8 applies, £230·00 per week, or
 - (ii) in any other case, £185·00 per week;
- (e) terminal illness, the appropriate amount shall be £230·00 per week; or
- (f) any condition not falling within sub-paragraphs (a) to (e), the appropriate amount shall be £185·00 per week.

8. For the purposes of paragraphs 6(1)(e) and 7(d) this paragraph applies to a person under pensionable age or a person over pensionable age who, before attaining pensionable age, had become physically disabled.

9. The appropriate amount applicable to a claimant in a home for persons in need or a nursing home shall, subject to paragraph 10, be determined—

- (a) where the home is a home for persons in need registered under Article 35 of, and Schedule 5 to, the 1972 Order by reference to the particulars recorded in the register kept by the relevant Health and Social Services Board for the purposes of that Order; or
- (b) where the home is a home for persons in need not so registered or a nursing home, by reference to the type of care which, taking into account the facilities and accommodation provided, the home is providing to the claimant.

10.—(1) Where more than one amount would otherwise be applicable, in accordance with paragraph 9, to a claimant in a home for persons in need or a nursing home, the appropriate amount in any case shall be determined in accordance with sub-paragraphs (2) to (4).

(2) Where the home is a home for persons in need registered under Article 35 of, and Schedule 5 to, the 1972 Order and where the personal care that the claimant is receiving corresponds to the care received by a category of residents for whom the register indicates that the home provides accommodation, the appropriate amount shall be the amount, in paragraph 6 or 8, as the case may be, as is consistent with that personal care.

(3) Where the home is a home for persons in need which is so registered but where the personal care that the claimant is receiving does not correspond to the care received by a category of residents for whom the register indicates that the home

(a) S.I. 1983/883

(b) S.I. 1983/686

provides accommodation, the appropriate amount shall be the lesser or least amount, in paragraph 6 or 8, as the case may be, as is consistent with those categories.

(4) In any case not falling within sub-paragraph (2) or (3), the appropriate amount shall be whichever amount of the amounts applicable in accordance with paragraphs 6 or 7 and 9 is, having regard to the types of personal care that the home provides, most consistent with the personal care being received by the claimant in that accommodation.

Circumstances in which the maximum is not to apply

11.—(1) Where a claimant who satisfies the conditions in sub-paragraph (2) has been able to meet the charges referred to in paragraphs 1 and 2 without recourse to income support or supplementary benefit, the maximum determined in accordance with paragraph 5 shall not apply for the period of 13 weeks or, if alternative accommodation is found earlier, such lesser period following the date of claim except to the extent that the claimant is able to meet out of income disregarded for the purposes of Part V the balance of the actual charge over the maximum.

(2) The conditions for the purposes of sub-paragraph (1) are that—

- (a) the claimant has lived in the same accommodation for more than 12 months;
- (b) he was able to afford the charges in respect of that accommodation when he took up residence;
- (c) having regard to the availability of suitable alternative accommodation and to the circumstances mentioned in paragraph 10(7)(b) of Schedule 3 (housing costs), it is reasonable that the maximum should not apply in order to allow him time to find alternative accommodation;
- (d) he is not a person who is being accommodated by a Health and Social Services Board under section 164 of the Children and Young Persons Act (Northern Ireland) 1968(a) (general function for promoting the welfare of persons under the age of 18); and
- (e) he is seeking alternative accommodation and intends to leave his present accommodation once alternative accommodation is found.

(3) Where—

- (a) the claimant was a resident in a home for persons in need or a nursing home immediately before 29th April 1985 and has continued after that date to be resident in the same accommodation, apart from any period of temporary absence; and
- (b) immediately before that date, the actual charge for the claimant's accommodation was being met either wholly or partly out of the claimant's resources, or, wholly or partly out of other resources which can no longer be made available for this purpose; and
- (c) since that date the Department has not at any time accepted responsibility for the making of arrangements for the provision of such accommodation for the claimant; and
- (d) the Department, in its discretion, has determined that this sub-paragraph shall have effect in the particular case of the claimant in order to avoid exceptional hardship,

the maximum amount shall be the rate specified in sub-paragraph (4) if that rate exceeds the maximum which, but for this sub-paragraph, would be determined under paragraph 5.

(a) 1968 c. 34 (N.I.); section 164 was amended by Schedule 18 to the Health and Personal Social Services (Northern Ireland) Order 1972

(4) For the purposes of sub-paragraph (3) the rate is either—

(a) the actual weekly charge for the accommodation immediately before 29th April 1985 plus £10; or

(b) the aggregate of the following amounts—

(i) the amount estimated under regulation 9(6) of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983(a) as then in force as the reasonable weekly charge for the area immediately before that date,

(ii) £26.15, and

(iii) if the claimant was entitled at that date to attendance allowance under section 35 of the principal Act at the higher rate, £28.60 or, as the case may be, at the lower rate, £19.10,

whichever is the lower amount.

Personal allowances

12. The allowance for personal expenses for the claimant and each member of his family referred to in paragraph 1(1)(b) shall be—

(a) for the claimant £9.55; and, if he has a partner, for his partner, £9.55;

(b) for a young person aged 18, £9.55;

(c) for a young person aged under 18 but over 16, £6.20;

(d) for a child aged under 16 but over 11, £5.30;

(e) for a child aged under 11, £3.45.

PART II

PERSONS TO WHOM REGULATION 19 DOES NOT APPLY

13. A claimant and his family whose accommodation and meals (if any) are provided in whole or in part by a close relative of any member of the family or other than on a commercial basis.

14. A person who is on holiday and during a period which has not continued for more than 13 weeks is absent from his home or from a hospital or similar institution in which he is normally a patient.

15. A person who has entered a home for persons in need or a nursing home for the purpose of receiving an amount of income support to which he would not otherwise be entitled.

16. A person aged 16 or over but under 19 who is in the care of the Department under a relevant enactment except someone who is personally liable to pay the cost of his accommodation and maintenance direct to someone other than the Department.

(a) S.R. 1983 No. 61; the relevant amending regulations are S.R. 1986 No. 240

SCHEDULE 5

Regulation 20

PART I

APPLICABLE AMOUNTS OF PERSONS IN BOARD
AND LODGING ACCOMMODATION OR HOSTELS

1.—(1) Subject to sub-paragraph (2), the weekly applicable amount of a claimant to whom regulation 20 applies shall be the aggregate of—

- (a) subject to paragraph 3, the weekly charge for the accommodation including all meals and services provided for him or, if he is a member of a family, for him and his family increased where appropriate in accordance with paragraph 2 but, except in a case to which paragraph 10 applies, subject to the maximum determined in accordance with paragraph 5;
- (b) a weekly amount for personal expenses for him and, if he is a member of a family, for each member of his family determined in accordance with paragraph 11; and
- (c) where he is only temporarily in such accommodation any amount applicable under regulation 17(e) or 18(f) (housing costs) in respect of the dwelling normally occupied as the home.

(2) No amount shall be included in respect of any child or young person who is a member of the claimant's family if the capital of that child or young person calculated in accordance with Part V of these regulations in like manner as for the claimant, except where otherwise provided, would exceed £3,000.

2. Where the weekly charge for accommodation does not include the provision of all meals, it shall, for the purpose of paragraph 1(1)(a) be increased in respect of the claimant or, if he is a member of a family, in respect of each member of his family by the following amount—

- (a) if the meals can be purchased within the board and lodging accommodation or hostel, the amount equal to the actual cost of the meals, calculated on a weekly basis; or
- (b) if the meals cannot be so purchased, the amount calculated on a weekly basis—
 - (i) for breakfast, at a daily rate of £1·10,
 - (ii) for a midday meal, at a daily rate of £1·55,
 - (iii) for an evening meal, at a daily rate of £1·55,

except that, if some or all of the meals are normally provided free of charge or at a reduced rate, the amount shall be reduced to take account of the lower charge or reduction.

3. Where any part of the weekly charge for the accommodation is met by housing benefit, an amount equal to the part so met shall be deducted from the amount calculated in accordance with paragraph 1(1)(a).

4. Where a payment is to be made in respect of a period of less than one week, the applicable amount of the claimant under regulation 20 and this Schedule shall include the weekly amount to which paragraph 1(1)(a) applies, other than the increase for meals met under paragraph 2 which shall be met only in respect of the number of days falling in that period, if the weekly charge for the accommodation falls to be paid during that period.

5. Subject to paragraphs 6 and 7, the maximum referred to in paragraph 1(1)(a) shall be—

(a) in the case of a single claimant—

(i) in board and lodging accommodation, the appropriate amount in respect of that claimant specified in column (3) of Schedule 6 in respect of the board and lodging area, specified in column (1) of that Schedule in which his accommodation is situated, or

(ii) in a hostel £70·00 per week;

(b) where the claimant is a member of a family, in respect of each member of the family aged under 11, 1½ times the amount specified in paragraph 2(a) of Schedule 2, and either—

(i) if he is residing in board and lodging accommodation, in respect of each other member of the family, the appropriate amount specified in column (3) of Schedule 6 in respect of the board and lodging area specified in column (1) of that Schedule in which the family's accommodation is situated, or

(ii) if he is residing in a hostel, in respect of each other member of the family, £70·00 per week.

6. The maximum amount applicable in respect of a member of the family aged under 11 calculated in the manner referred to in paragraph 5(b)(i) shall be rounded to the nearest multiple of 5p by treating an odd amount of 2·5p or more as 5p and by disregarding an odd amount of less than 2·5p.

7. Except as provided by paragraph 9, the maximum amount specified in paragraph 5 shall be increased by any excess of the actual charge made to the claimant or, if he is a member of a family, made in respect of the family up to £17·50 in a case to which paragraph 8 applies or, if the claimant is one of a couple and paragraph 8(a) or (c)(i) or (ii) applies, up to £35·00.

8. The increase referred to in paragraph 7 shall apply in the case of—

(a) a claimant who has attained a pensionable age or, if one of a couple or polygamous marriage either member of that couple or any member of that marriage is aged 65 or over;

(b) a claimant or any other member of the family who is infirm by reason of physical or mental disability;

(c) a claimant in respect of whom one or more of the following conditions are satisfied—

(i) he or his partner is a person suffering from a mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986(a) in respect of whom the Department has, under Article 7 of the 1972 Order (prevention of illness, care and after care), made arrangements for the provision of residential accommodation in a private household or in premises which are not required to be registered in accordance with Schedule 5 to the 1972 Order,

(ii) he or his partner is a person who is resident in premises which are used for the rehabilitation of alcoholics or drug addicts and is so resident for the purposes of such rehabilitation.

9. Only one increase under paragraph 7 shall be applicable in respect of the claimant or any member of his family and the amount payable by virtue of that paragraph in respect of a claimant and his partner shall not exceed £35·00 and, if the claimant or any of his family who are in board and lodging accommodation or in a

(a) S.I. 1986/595 (N.I. 4)

hostel is in receipt of an attendance allowance the increase shall only be payable to the extent that the excess of the actual charge for board and lodging accommodation or the hostel over the maximum amount is more than the amount of the attendance allowance in payment but only up to the amount specified for the time being as the higher rate of attendance allowance for the purposes of section 35(3) of the principal Act(a).

10.—(1) Where the claimant satisfies the conditions in sub-paragraph (2), the maximum referred to in paragraph 1(1)(a) shall not apply for a period of 13 weeks or, if alternative accommodation is found earlier, such lesser period following the date of claim except to the extent that the claimant is able to meet out of income disregarded for the purposes of Part V of these regulations the balance of the actual charge for the board and lodging accommodation over the maximum.

(2) For the purposes of sub-paragraph (1) the conditions are that—

- (a) the claimant has lived in the same accommodation for more than 12 months;
- (b) he was able to afford the charges in respect of that accommodation when he took up residence;
- (c) having regard to the availability of board and lodging accommodation or hostels and to the circumstances mentioned in paragraph 10(7)(b) of Schedule 3 (housing costs), it is reasonable for the maximum referred to in paragraph 5 not to apply for the said period in order to allow the claimant time to find alternative accommodation;
- (d) he is not a person who is being accommodated by a Health and Social Services Board under section 164 of the Children and Young Persons Act (Northern Ireland) 1968 (general function for promoting the welfare of persons under the age of 18); and
- (e) he is seeking alternative accommodation and intends to leave his present accommodation once alternative accommodation is found.

11. The allowance for personal expenses for the claimant and each member of his family referred to in paragraph 1(1)(b) shall be—

- (a) for the claimant and for his partner where—
 - (i) at least one member of the family is a child or young person, £11·50,
 - (ii) he or his partner satisfies the conditions specified in Part III of Schedule 2 (applicable amounts) for the applicability of any of the premiums specified in that Part, £11·50;
- (b) in any other case—
 - (i) for the claimant, £10·30, and
 - (ii) for his partner, £10·30;
- (c) for a young person aged 18, £10·30;
- (d) for a young person aged under 18 but over 16, £6·20;
- (e) for a child aged under 16 but over 11, £5·30;
- (f) for a child aged under 11, £3·45.

(a) Section 35(3) was amended by Article 3(4) of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5))

PART II

PERSONS TO WHOM REGULATION 20 AND
PART I ARE NOT TO APPLY

12. A claimant and his family whose accommodation and meals (if any) are provided in whole or in part by a close relative of any member of that family or other than on a commercial basis.

13. A person who is on holiday and during a period which has not continued for more than 13 weeks is absent from the home or from a hospital or similar institution in which he is normally a patient.

14. A person who has entered into arrangements for board and lodging accommodation for the purpose of receiving an amount of income support to which he would not otherwise be entitled.

15. A person aged 16 or over but under 19 who is in the care of the Department under the provisions of a relevant enactment, except where he is personally liable to pay the cost of his accommodation and maintenance direct to someone other than the Department.

16.—(1) Subject to sub-paragraphs (2) to (5), a person who—

- (a) is aged 16 or over but under 25, and, if one of a couple, whose partner is also 16 or over but under 25; and
- (b) is required to be available for employment.

(2) Sub-paragraph (1) shall not have effect in respect of such a person before the beginning of, and during, the initial period (including that period as extended under sub-paragraph (5)) shown as applicable in column (4) of Schedule 6 in respect of the board and lodging area in which that person's accommodation is situated.

(3) Without prejudice to sub-paragraph (4), sub-paragraph (1) shall not have effect in respect of a claimant who was in receipt of supplementary benefit as a boarder on 24th November 1985.

(4) Sub-paragraph (1) shall not have effect also where such a person—

- (a) is treated as responsible for a child or young person;
- (b) is in a hostel;
- (c) is, or has a partner who is, pregnant;
- (d) is, or has a partner who is, chronically sick, mentally handicapped, physically disabled or suffering from a mental disorder or was, or has a partner who was, suffering from a mental disorder and it is unreasonable to expect him or his partner to be in accommodation other than board and lodging accommodation;
- (e) had, or has a partner who had, immediately prior to the date of claim been in the accommodation for 6 months whilst either in employment and not in receipt of supplementary allowance under the Supplementary Benefits (Northern Ireland) Order 1977(a) or income support, or, if not in employment and in receipt of such an allowance or income support, was not required to be available for employment;
- (f) has, or has a partner who has, entered the accommodation as part of a programme of rehabilitation or resettlement under guidance from the

(a) S.I. 1977/2156 (N.I. 27)

Department, any other government department, a voluntary organisation or the probation and after-care service;

- (g) is a student, during his normal summer vacation provided he occupies the same accommodation as he occupied when attending his course of study;
- (h) has, or has a partner who has, been in the care of the Department under a relevant enactment and 12 months has not elapsed since he or his partner ceased to be in care;
- (i) is aged 16 or over but under 19 and—
 - (i) has no parent and there is no person acting in the place of his parent,
 - (ii) has had to leave his family home because he was in physical or moral danger, or
 - (iii) is in the care of the Department under the provisions of a relevant enactment, being a person who is personally liable to pay the cost of his accommodation and maintenance direct to someone other than the Department;
- (j) is in the same accommodation as that of his or of his partner's parents or step-parents who are in board and lodging accommodation;
- (k) is in the same accommodation as that of the persons with whom he or his partner had been previously boarded out by the Department under the provisions of a relevant enactment;
- (l) is, or has a partner who is, remanded on bail, or is, or has a partner who is, in compliance with a court order, under the supervision of a probation officer, or the Department;
- (m) would, or has a partner who would, suffer exceptional hardship if sub-paragraph (1) were to apply; and any question as to whether any person comes within this sub-paragraph shall be determined by the Department in its discretion and its decision of such questions—
 - (i) shall be given in relation to particular cases only,
 - (ii) may be revised from time to time as it considers appropriate,
 - (iii) may be given so as to have effect for a specified period, and
 - (iv) shall be conclusive for the purposes of this Schedule.

(5) Where during an initial period a person becomes employed and is not in receipt of income support or he is no longer required to be available for employment and is in receipt of income support, that initial period shall be extended by the period during which that person is employed or is no longer required to be available for employment provided he is in the same board and lodging area.

17.—(1) A person who was for a period one to whom regulation 20 and Part II applied because of paragraph 16(2) (during an initial period) and in respect of whom the relevant period has not elapsed.

(2) For the purposes of this paragraph “the relevant period” means the period of 26 weeks beginning with the first day of the benefit week following the date of the adjudication officer's decision involving a determination that that person is a person to whom regulation 20 and Part II apply because of paragraph 16(2).

18. In this Schedule “initial period” means that period provided by paragraph 16(2) consisting of a week or multiple of weeks beginning with the first day of the benefit week following the date of the adjudication officer's decision involving a determination that the person concerned is a person in board and lodging accommodation because of paragraph 16(2), being a week or multiple of weeks that correspond to benefit weeks during which the person is required to be available for employment.

SCHEDULE 6

Regulation 20(2)
paragraph 5 of Schedule 5**Board and Lodging Areas, Maximum Amounts and Initial Periods**

| <i>Board and Lodging Areas</i> (1) | <i>Social Security Office Areas</i> (2) | <i>Limits (£)</i> (3) | <i>Periods (Weeks)</i> (4) |
|---------------------------------------|---|--------------------------|-------------------------------|
| 1. | Andersonstown Corporation Street Falls Road Holywood Road Knockbreda Shaftesbury Square Shankill Lisburn Newtownabbey | 60 | 8 |
| 2. | Antrim Carrickfergus Larne | 50 | 4 |
| 3. | Ballynahinch Bangor Downpatrick Newtownards | 55 | 4 |
| 4. | Ballymena | 55 | 4 |
| 5. | Ballymoney Coleraine | 55 | 4 |
| 6. | Magherafelt | 60 | 4 |
| 7. | Cookstown | 60 | 4 |
| 8. | Dungannon | 60 | 4 |
| 9. | Armagh Banbridge Lurgan Portadown | 55 | 4 |
| 10. | Kilkeel Newcastle Newry | 60 | 4 |
| 11. | Enniskillen | 50 | 4 |
| 12. | Omagh | 55 | 4 |
| 13. | Strabane | 55 | 4 |
| 14. | Limavady Londonderry | 60 | 4 |

Applicable Amounts in Special Cases

| Column (1) | Column (2) |
|--|---|
| <p><i>Patients</i></p> <p>1. Subject to paragraphs 2, 3 and 16, a person who has been a patient for a period of more than 6 weeks and who is—</p> <p>(a) a single claimant;</p> <p>(b) a lone parent;</p> <p>(c) a member of a couple—</p> <p>(i) where only one of the couple is a patient or, where both members of the couple are patients but only one has been a patient for that period,</p> <p>(ii) where both members of the couple have been a patient for that period;</p> <p>(d) a member of a polygamous marriage—</p> <p>(i) where at least one member of the polygamous marriage is not a patient or has not been a patient for more than that period,</p> <p>(ii) where all the members of the polygamous marriage have been patients for more than that period.</p> <p>2. A single claimant who has been a patient for a continuous period of more than 52 weeks, where—</p> | <p>1. (a) £8·25 plus any amount applicable under regulation 17(e);</p> <p>(b) £8·25 plus any amounts applicable to him under regulation 17(b), (c) or (e) or under regulation 17(d) because of paragraph 8 or 14 of Schedule 2 (applicable amounts);</p> <p>(c) (i) the amount applicable in respect of both of them under regulation 17 (applicable amounts) reduced by £8·25,</p> <p>(ii) £16·50 plus any amounts which may be applicable under regulation 17(b), (c) or (e) or under regulation 17(d) because of paragraph 14 of Schedule 2;</p> <p>(d) (i) the applicable amount under regulation 18 (polygamous marriages) shall be reduced by £8·25 in respect of each such member who is a patient,</p> <p>(ii) the applicable amount shall be £8·25 in respect of each member plus any amounts applicable under regulation 18(c), (d), (e) or (f) because of his satisfying the condition specified in paragraph 3 or 14 of Schedule 2.</p> |

| Column (1) | Column (2) |
|--|---|
| <p>(a) the following conditions are satisfied—</p> <ul style="list-style-type: none"> (i) a person has been appointed to act for him under regulation 33 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(a) (persons unable to act), (ii) his income support is payable to an administrative officer of the hospital or other institution either as or at the request of the person so appointed, and (iii) a registered medical practitioner treating him certifies that all or part of his income support cannot be used by him or on his behalf; or <p>(b) those conditions are not satisfied.</p> <p>3. Subject to paragraph 16—</p> <p>(a) a claimant who is not a patient and who is a member of a family of which another member is a child or young person who has been a patient for a period of more than 12 weeks; or</p> <p>(b) where the person is a member of a family and paragraph 1 applies to him and another member of the family who is a child or young person has been a patient for a period of more than 12 weeks.</p> | <p>2. (a) Such amount (if any) not exceeding £8·25 as is reasonable having regard to the views of the hospital staff and the patient's relatives if available as to the amount necessary for his personal use; or</p> <p>(b) £8·25.</p> <p>3. (a) The amount applicable to him under regulation 17 or 18 except that the amount applicable under regulation 17(b) or 18(c) in respect of the child or young person referred to in column (1) of this paragraph shall be £8·25 instead of an amount determined in accordance with paragraph 2 of Schedule 2; or</p> <p>(b) the amount applicable to him under paragraph 1 except that the amount applicable under regulation 17(b) or 18(c) in respect of the child or young person referred to in column (1) of this paragraph shall be £8·25 instead of an amount determined in accordance with paragraph 2 of Schedule 2.</p> |

(a) S.R. 1987 No. 465

| Column (1) | Column (2) |
|---|--|
| <p>4. Subject to paragraph 16, a claimant who is a member of a family, where one or more members of that family is a patient and one or more members of that family temporarily enter into board and lodging accommodation within the meaning of regulation 20(2) (persons in board and lodging accommodation and hostels) in order to be near to the member who is a patient.</p> | <p>4. The amount applicable to the family in accordance with regulation 17 or 21 (applicable amounts or special cases), as the case may be, plus, except in a case to which any of paragraphs 12 to 15 of Schedule 5 applies, the weekly charge for the board and lodging accommodation calculated in accordance with paragraph 1(1)(a) of that Schedule except that no increase shall be included in respect of meals under paragraph 2 of that Schedule.</p> |
| <p>5. A claimant who is a member of a polygamous marriage, where one or more members of that marriage or any child or young person for whom any member of that marriage is treated as responsible for by virtue of regulation 15 (circumstances in which a person is to be treated as responsible or not responsible for another) temporarily enter into board and lodging accommodation within the meaning of regulation 20(2) in order to be near to the partner, child or young person who is a patient.</p> | <p>5. The amount applicable to the family in accordance with regulation 18 or 21, as the case may be, plus, except in a case to which any of paragraphs 12 to 15 of Schedule 5 applies, the weekly charge for the board and lodging accommodation calculated in accordance with paragraph 1(1)(a) of that Schedule except that no increase shall be included in respect of meals under paragraph 2 of that Schedule.</p> |
| <p><i>Claimants without accommodation</i></p> | |
| <p>6. A claimant who is without accommodation.</p> | <p>6. The amount applicable to him under regulation 17(a) only.</p> |
| <p><i>Members of religious orders</i></p> | |
| <p>7. A claimant who is a member of and fully maintained by a religious order.</p> | <p>7. Nil.</p> |
| <p><i>Prisoners</i></p> | |
| <p>8. A person— (a) except where sub-paragraph (b) applies, who is a prisoner; (b) who is detained in custody pending trial or sentence following conviction by a court.</p> | <p>8. (a) Nil; (b) only such amount (if any) as may be applicable under regulation 17(e).</p> |
| <p><i>Specified cases of temporarily separated couples</i></p> | |
| <p>9. A claimant who is a member of a couple and who is temporarily separated from his partner where one of them is living in the home while the other member is—</p> | <p>9. Either—</p> |

| Column (1) | Column (2) |
|--|---|
| <p>(a) not a patient but is resident in a nursing home;</p> <p>(b) resident in a home for persons in need;</p> <p>(c) in accommodation referred to in sub-paragraphs (a) and (b) of the definition of residential accommodation in regulation 21(3) (special cases);</p> <p>(d) resident in premises used for the rehabilitation of alcoholics or drug addicts;</p> <p>(e) attending a course of training or instruction provided or approved by the Department of Economic Development where the course requires him to live away from home; or</p> <p>(f) in probation or bail accommodation approved for the purpose by the Probation Board for Northern Ireland.</p> | <p>(a) the amount applicable to him as a member of a couple under regulation 17; or</p> <p>(b) the aggregate of his applicable amount and that of his partner assessed under the provisions of these regulations as if each of them were a single claimant or a lone parent, whichever is the greater.</p> |
| <p><i>Polygamous marriages where one or more partners are temporarily separated</i></p> | |
| <p>10. A claimant who is a member of a polygamous marriage and who is temporarily separated from a partner of his, where one of them is living in the home while the other member is—</p> | <p>10. Either—</p> |
| <p>(a) not a patient but is resident in a nursing home;</p> <p>(b) resident in a home for persons in need;</p> <p>(c) in accommodation referred to in sub-paragraphs (a) and (b) of the definition of residential accommodation in regulation 21(3) (special cases);</p> <p>(d) resident in premises used for the rehabilitation of alcoholics or drug addicts;</p> <p>(e) attending a course of training or instruction provided or approved by the Department of Economic Development where the course requires him to live away from home; or</p> | <p>(a) the amount applicable to the members of the polygamous marriage under regulation 18; or</p> <p>(b) the aggregate of the amount applicable for the members of the polygamous marriage who remain in the home under regulation 18 and the amount applicable in respect of those members not in the home calculated as if each of them were a single claimant or a lone parent, whichever is the greater.</p> |

| Column (1) | Column (2) |
|---|--|
| <p>(f) in probation or bail accommodation approved for the purpose by the Probation Board for Northern Ireland.</p> | |
| <p><i>Couples where one member is abroad</i></p> | |
| <p>11. A claimant who is a member of a couple and whose partner is temporarily not present in Northern Ireland.</p> | <p>11. For the first 4 weeks of that absence, the amount applicable to them as a couple under regulation 17 or 19 to 21, as the case may be, and thereafter the amount applicable to the claimant in Northern Ireland under regulation 17 or 19 to 21, as the case may be, as if the claimant were a single claimant or as the case may be a lone parent.</p> |
| <p><i>Polygamous marriages where any member is abroad</i></p> | |
| <p>12. A claimant who is a member of a polygamous marriage and who, or whose partner, is temporarily not present in Northern Ireland.</p> | <p>12. For the first 4 weeks of that absence, the amount applicable to them as members of a polygamous marriage under regulations 18 to 21, as the case may be, and thereafter the amount applicable to the claimant in Northern Ireland under regulations 18 to 21, as the case may be, as if the member not in Northern Ireland were not a member of the marriage.</p> |
| <p><i>Persons in residential accommodation</i></p> | |
| <p>13.—(1) Subject to sub-paragraph (2), a person in, or only temporarily absent from, residential accommodation who is—</p> | |
| <p>(a) a single claimant;</p> | <p>13.—(1)(a) £41·15 of which</p> |
| <p>(b) a lone parent;</p> | <p>£32·90 is in respect of the cost of the residential accommodation and £8·25 for personal expenses;</p> |
| <p>(c) one of a couple;</p> | <p>(b) the amount specified in head (a) of this column;</p> |
| <p>(d) a child or young person;</p> | <p>(c) twice the amount specified in head (a) of this column;</p> |
| <p>(e) a member of a polygamous marriage.</p> | <p>(d) the appropriate amount in respect of him prescribed in paragraph 2 of Schedule 2;</p> |
| | <p>(e) the amount specified in head (a) multiplied by the number of members of the polygamous marriage in, or only temporarily absent from, that accommodation.</p> |

| Column (1) | Column (2) |
|--|--|
| <p>(2) A single claimant who has become a patient and whose residential accommodation was provided by and managed by the Department.</p> <p><i>Persons temporarily absent from board and lodging accommodation or a hostel, home for persons in need or nursing home</i></p> <p>14. Where a person has to pay a retaining fee for accommodation which, but for his temporary absence from it, regulation 19 or 20 (persons in homes for persons in need and nursing homes or persons in board and lodging accommodation and hostels) would apply and—</p> <p>(a) he is a person in accommodation referred to in sub-paragraphs (a) and (b) of the definition of residential accommodation in regulation 21(3) (special cases) and paragraph 13 does not apply to him by reason only that his stay in that accommodation has not become other than temporary;</p> <p>(b) he is a person to whom paragraphs 1 to 3 or 16 (patients) applies; or</p> <p>(c) he is absent for a period of at least one week from that accommodation being accommodation either in a home for persons in need or nursing home and he is not required to be available for employment.</p> <p><i>Persons from abroad</i></p> <p>15. Except in relation to a person from abroad to whom regulation 70(3) (urgent cases) applies—</p> <p>(a) a person from abroad who is a single claimant;</p> | <p>(2) £8·25.</p> <p>14. The amount otherwise applicable to him under these regulations may be increased to take account of the retaining fee by an amount not exceeding 80 per cent. of the applicable amount referred to in paragraph 1(1)(a) of Schedule 4 (applicable amounts of persons in homes for persons in need and nursing homes) or paragraph 1(1)(a) of Schedule 5 (applicable amounts of persons in board and lodging accommodation and hostels), as the case may be, and—</p> <p>(a) in a case to which sub-paragraph (a) or (b) of column (1) applies, any such increase shall not be for a continuous period of more than 52 weeks;</p> <p>(b) in a case of a person to whom only sub-paragraph (c) of column (1) applies, any such increase shall not be for a continuous period of more than 4 weeks.</p> <p>15. (a) Nil;</p> |

| Column (1) | Column (2) |
|--|---|
| <p>(b) a lone parent—</p> <ul style="list-style-type: none"> (i) where he is a person from abroad, (ii) where he is not a person from abroad, but one or more members of his family are persons from abroad; <p>(c) a member of a couple—</p> <ul style="list-style-type: none"> (i) where the claimant is not a person from abroad but his partner is such a person, whether or not regulation 70 applies to that partner, (ii) where the claimant is a person from abroad but his partner is not such a person, (iii) where the claimant and his partner are both persons from abroad; <p>(d) where regulation 18 (polygamous marriages) applies and—</p> <ul style="list-style-type: none"> (i) the claimant is not a person from abroad but one or more but not all of his partners are persons from abroad, | <p>(b) (i) nil,</p> <p>(ii) the amount applicable to him under regulation 17(a) plus, in respect of any members of his family not a person from abroad, any amounts applicable to him under regulation 17(b), (c) or (d) plus the amount applicable to him under regulation 17(e) or, as the case may be, regulation 19, 20 or 21;</p> <p>(c) (i) the amount applicable in respect of him only under regulation 17(a) plus, in respect of any child or young person who is a member of his family and who is not a person from abroad, any amounts which may be applicable to him under regulation 17(b), (c) or (d) plus the amount applicable to him under regulation 17(e) or, as the case may be, regulation 19, 20 or 21,</p> <p>(ii) nil,</p> <p>(iii) nil;</p> <p>(d) (i) the amounts determined in accordance with that regulation or regulation 19, 20 or 21 in respect of the claimant and any partners of his and any child or young person for whom he or any partner is treated as responsible, who are not persons from abroad,</p> |

| Column (1) | Column (2) |
|---|--|
| <p>(ii) the claimant is a person from abroad, whether or not one or more of his partners are persons from abroad,</p> <p>(iii) the claimant and all his partners are persons from abroad;</p> <p>(e) where any amount is applicable to the claimant under regulation 17(d) because of Part III of Schedule 2 because he or his partner satisfies the condition prescribed therein and he or his partner as the person so satisfying the condition is a person from abroad.</p> | <p>(ii) nil,</p> <p>(iii) nil;</p> <p>(e) no amount shall be applicable under regulation 17(d) because of Part III of Schedule 2.</p> |
| <p><i>Persons in homes for persons in need, nursing homes, board and lodging accommodation or hostels who become patients</i></p> <p>16. A claimant to whom regulation 19 or 20 applies immediately before he or a member of his family became a patient where—</p> <p>(a) he or any member of his family has been a patient for a period of 6 weeks or less and the claimant—</p> <p>(i) continues to be liable to meet the weekly charge for the accommodation without reduction in respect of himself or that member of his family who is a patient,</p> <p>(ii) continues to be liable to meet the weekly charge for the accommodation but at a reduced rate,</p> | <p>16. (a) (i) The amount which would be applicable under regulation 19 or 20, as the case may be, as if the claimant or the member of the family who is a patient were resident in the accommodation to which regulation 19 or 20 applies,</p> <p>(ii) the amount which would be applicable under regulation 19 or 20, as the case may be, having taken into account the reduced charge, as if the claimant or the member of the family who is a patient were resident in the</p> |

| Column (1) | Column (2) |
|---|---|
| <p>(iii) is a single claimant and is likely to return to the accommodation, but has ceased to be liable to meet the weekly charge for that accommodation, or</p> <p>(iv) is a single claimant who ceases to be liable to meet the weekly charge for the accommodation and who is unlikely to return to that accommodation;</p> <p>(b) he or his partner has been a patient for a period of more than 6 weeks and the patient is—</p> <p>(i) a single claimant,</p> <p>(ii) a lone parent,</p> | <p>accommodation to which regulation 19 or 20 applies,</p> <p>(iii) the amount applicable to him (if any) under paragraph 2(2) of Schedule 4 or paragraph 2 of Schedule 5, as the case may be, plus the amount in respect of him as an allowance for personal expenses prescribed by either paragraph 12 of Schedule 4 or paragraph 11 of Schedule 5, as the case may be, as if he were residing in the accommodation to which regulation 19 or 20 applies, or</p> <p>(iv) the amount which would be applicable to him under regulation 17;</p> <p>(b) (i) £8.25 plus either the amount prescribed in paragraph 14 in respect of any retaining fee he is liable to pay for the accommodation or the amount applicable under regulation 17(e), but not both,</p> <p>(ii) where one or more children or young persons remain in the accommodation, the amount applicable to the family as if regulation 19 or 20, as the case may be, having taken into account any reduction in charge, continued to apply to all the members of the family except that where the lone parent is the patient no amount shall be applicable in respect of him under</p> |

| <i>Column (1)</i> | <i>Column (2)</i> |
|--|---|
| <p>(iii) one of a couple or polygamous marriage and one of that couple or marriage is not a patient or</p> | <p>paragraph 2(2) of Schedule 4 or paragraph 2 of Schedule 5, as the case may be, and for the amount in respect of the allowance for personal expenses prescribed by either paragraph 12 of Schedule 4 or paragraph 11 of Schedule 5, as the case may be, there shall be substituted £8·25,</p> <p>— where all the children or young persons are absent from the accommodation, £8·25 plus any amounts applicable to him under regulation 17(b), (c) or (d) plus (if appropriate) either the amount applicable under column (2) of paragraph 14(a) or the amount applicable under regulation 17(e), but not both,</p> <p>— where one or more children or young persons are also patients and have been so for more than 12 weeks, in respect of those children and young persons remaining in the accommodation and the lone parent patient, the amount specified in case one of column (2) of subparagraph (b)(iii) save that the child or young person who has been a patient for more than 12 weeks shall be disregarded as a member of the family in assessing the amount applicable under regulation 19 or 20, as the case may be, and in respect of each such child or young person there shall be added £8·25,</p> <p>(iii) where the members of the family not patients remain in the accommodation, the amount applicable to the</p> |

| <i>Column (1)</i> | <i>Column (2)</i> |
|--|--|
| <p>has been a patient for 6 weeks or less,</p> <p>(iv) one of a couple or polygamous marriage where all the members of that couple or marriage are</p> | <p>family as if regulation 19 or 20, as the case may be, having taken into account any reduction in charge, continued to apply to all the members of the family except that in respect of the member of the couple or polygamous marriage who has been a patient for more than 6 weeks no amount shall be applicable in respect of him under paragraph 2(2) of Schedule 4 or paragraph 2 of Schedule 5, as the case may be, and for the amount in respect of the allowance for personal expenses prescribed by either paragraph 12 of Schedule 4 or paragraph 11 of Schedule 5, as the case may be, there shall be substituted £8·25,</p> <p>— where one or more children or young persons are also patients and have been so for more than 12 weeks, in respect of those children and young persons and the member of the couple or polygamous marriage remaining in the accommodation, the amount specified in case one of column (2) of subparagraph (b)(ii) save that the child or young person who has been a patient for more than 12 weeks shall be disregarded as a member of the family in assessing the amount applicable under regulation 19 or 20, as the case may be, and in respect of each such child or young person there shall be added £8·25,</p> <p>(iv) where there is no child or young person in the family, £8·25 in respect of each member of the couple or</p> |

| <i>Column (1)</i> | <i>Column (2)</i> |
|---|--|
| <p>patients and have been so for more than 6 weeks;</p> | <p>polygamous marriage plus either the amount prescribed in paragraph 14 in respect of any retaining fee for the accommodation he is liable to pay or the amount applicable under regulation 17(e) or 18(f), but not both,</p> <p>— where there is a child or young person remaining in the accommodation, the amount which would be applicable in respect of the family as if regulation 19 or 20, as the case may be, having taken into account any reduction in charge continued to apply to all the members of the family except that in respect of a member of the couple or polygamous marriage no amount shall be applicable in respect of him under paragraph 2(2) of Schedule 4 or paragraph 2 of Schedule 5, as the case may be, and for the amount in respect of the allowance for personal expenses prescribed by either paragraph 12 of Schedule 4 or paragraph 11 of Schedule 5, as the case may be, in respect of that member there shall be substituted £8·25,</p> <p>— where there is a child or young person in the family but no child or young person remains in the accommodation, the amount applicable under column (2) of paragraph 1(c) or (d), as the case may be, plus either the amount applicable under column (2) of paragraph 14(a) or the amount applicable under regulation 17(e) or 18(f), but not both,</p> |

| Column (1) | Column (2) |
|---|--|
| <p>(c) a child or young person who has been a patient for a period of more than 12 weeks.</p> <p><i>Claimants entitled to the disability premium for a past period</i></p> <p>17. A claimant—</p> <p>(a) whose time for claiming income support has been extended under regulation 19(2) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(a) (time for claiming benefit); and</p> <p>(b) whose partner was entitled to income support in respect of the period beginning with the day on which the claimant's claim is treated as made under paragraph 6(4) of Schedule 7 to those regulations (commencement of</p> | <p>— where one or more children or young persons are also patients and have been so for more than 12 weeks, in respect of those children and young persons and the member of the couple or polygamous marriage remaining in the accommodation and the lone parent patient, the amount specified in case 2 of column (2) of subparagraph (b)(iv) save that the child or young person who has been a patient for more than 12 weeks shall be disregarded as a member of the family in assessing the amount applicable under regulation 19 or 20, as the case may be, and in respect of each such child or young person there shall be added £8·25;</p> <p>(c) the amount applicable under regulation 19 or 20, as the case may be, as if that child or young person was not a member of the family plus an amount of £8·25 in respect of that child or young person.</p> <p>17. The amount only of the disability premium applicable under paragraph 11(b) of Schedule 2 and specified in paragraph 15(4)(b) of that Schedule.</p> |

| <i>Column (1)</i> | <i>Column (2)</i> |
|--|-------------------|
| entitlement to income support) and ending with the day on which the claim is actually made; and (c) who satisfied the condition in paragraph 11(b) of Schedule 2 and the additional condition referred to in that paragraph and specified in paragraph 12(1)(b) of that Schedule in respect of that period. | |

Rounding of fractions

18. Where any calculation under this Schedule or as a result of income support being awarded for a period less than one complete benefit week results in a fraction of a penny that fraction shall be treated as a penny.

Sums to be disregarded in the Calculation of Earnings

1. In the case of a claimant who has been engaged in remunerative work as an employed earner—

- (a) any earnings paid or due to be paid on termination of his employment—
 - (i) by way of retirement but only if on retirement he is entitled to a retirement pension under the principal Act, or would be so entitled if he satisfied the contribution conditions,
 - (ii) otherwise than by retirement except earnings to which regulation 35(1)(b) to (e), (g) to (i) (earnings of employed earners) applies;
- (b) any earnings paid or due to be paid on the interruption of his employment except earnings to which regulation 35(1)(d) and (e) applies; but this sub-paragraph shall not apply where the claimant has been suspended from his employment.

2. In the case of a claimant who has been engaged in part-time employment as an employed earner immediately before he made a claim for income support, any earnings paid on termination or interruption of that employment except any payment to which regulation 35(1)(e) applies; but this paragraph shall not apply where the claimant has been suspended from his employment.

3. In the case of a claimant who has been engaged in remunerative work or part-time employment as a self-employed earner and who has ceased to be so employed, from the date of the cessation of his employment any earnings derived from that employment except earnings to which regulation 30(2) (royalties etc) applies.

4.—(1) If the calculation of the claimant's applicable amount—

- (a) includes, or but for his being an in-patient or in accommodation in a home for persons in need, nursing home, hostel, board and lodging accommodation or in residential accommodation would include, an amount by way of a disability premium under Schedule 2 (applicable amounts); or
- (b) (i) includes, or but for his being an in-patient or in accommodation in a home for persons in need, nursing home, hostel, board and lodging accommodation or in residential accommodation would include, an amount by way of the higher pensioner premium under Schedule 2, and
 - (ii) he or his partner has attained the age of 60 and immediately before attaining that age either was engaged in employment and the claimant was or but for his being an in-patient or in accommodation in a home for persons in need, nursing home, hostel, board and lodging accommodation or in residential accommodation would have been, entitled under head (a) to a disregard of £15, and
 - (iii) either he or his partner has continued in part-time employment,

£15; but, notwithstanding regulation 23 (calculation of income and capital of members of claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £15.

(2) For the purposes of sub-paragraph (1)(b)(iii) no account shall be taken of any period not exceeding 8 consecutive weeks occurring on or after the date on which the

claimant or his partner attained the age of 60 during which either ceased to be engaged in employment or the claimant ceased to be entitled to income support.

5. If an amount by way of a lone parent premium under Schedule 2 is, or but for the pensioner premium being applicable to him or for his accommodation in a home for persons in need, nursing home, hostel, board and lodging accommodation or in residential accommodation would be, included in the calculation of the claimant's applicable amount, £15.

6.—(1) In a case where paragraph 4 does not apply, if the claimant is one of a couple and both members of that couple are under age 60 and one of the couple has for a continuous period of 2 years been in receipt of income support in respect of a couple (whether or not the same couple) and during that period—

- (a) neither member has been engaged in remunerative work; or
- (b) neither member has been receiving full-time education,

for a period exceeding 8 consecutive weeks, £15; but, notwithstanding regulation 23, if this paragraph applies to one of the couple it shall not apply to the other except where, and to the extent that, the earnings of the one which are to be disregarded under this paragraph are less than £15.

(2) For the purposes of this paragraph—

- (a) in determining whether a period is continuous no account shall be taken of any period not exceeding 8 weeks during which the claimant ceased to be a member of a couple or to be in receipt of income support;
- (b) in determining whether one of a couple has been in receipt of income support for a continuous period of 2 years, consecutive periods during which either member was in receipt of income support shall be treated as periods during which one of that couple had been so in receipt.

(3) For the purposes of this paragraph—

- (a) any period beginning before the commencement of these regulations during which the claimant or the other member of the couple was in receipt of supplementary benefit in respect of a couple, and immediately preceding the receipt of income support, is to be taken into account as if it were a period of income support except where during that period either the claimant or the other member was engaged in remunerative work or receiving relevant education within the meaning of Article 9 of the Supplementary Benefits (Northern Ireland) Order 1977(a);
- (b) any period during which the claimant or the other member of the couple is in receipt of income support under the Social Security Act 1986(b) or was in receipt of supplementary benefit under the Supplementary Benefits Act 1976(c) and immediately preceding the receipt of income support is to be taken into account as if it were a period of income support,

and in determining whether any such period is continuous sub-paragraph (2) hereof shall apply by analogy.

7.—(1) In a case to which none of paragraphs 4 to 6 applies to the claimant, £15 of earnings derived from one or more employments as—

- (a) a part-time fireman in a fire brigade maintained in pursuance of the Fire Services (Northern Ireland) Order 1984(d);

(a) S.I. 1977/2156 (N.I. 27); Article 9 was substituted by paragraph 7 of, and Part I of Schedule 2 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8))

(b) 1986 c. 50; the relevant amending instrument is 1987 c. 7

(c) 1976 c. 71

(d) S.I. 1984/1821 (N.I. 11)

- (b) an auxiliary coastguard in respect of coast rescue activities;
 - (c) a person engaged part-time in the manning or launching of a lifeboat;
 - (d) a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979(a);
 - (e) a member of the Ulster Defence Regiment who is neither serving also as a member of any of the regular naval, military or air forces of the Crown, nor on the full-time staff of that regiment;
 - (f) a part-time member of the Royal Ulster Constabulary Reserve appointed under section 9(1) of the Police Act (Northern Ireland) 1970(b),
- but, notwithstanding regulation 23, if this paragraph applies to a claimant it shall not apply to his partner except to the extent specified in sub-paragraph (2).

(2) If the claimant's partner is engaged in employment—

- (a) specified in sub-paragraph (1) so much of his earnings as would not in aggregate with the amount of the claimant's earnings disregarded under this paragraph exceed £15;
- (b) other than one specified in sub-paragraph (1) so much of his earnings from that employment up to £5 as would not in aggregate with the claimant's earnings disregarded under this paragraph exceed £15.

8. Where the claimant is engaged in one or more employments specified in paragraph 7(1) but his earnings derived from such employments are less than £15 in any week and he is also engaged in any other part-time employment so much of his earnings from that other employment up to £5 as would not in aggregate with the amount of his earnings disregarded under paragraph 7 exceed £15.

9. In a case to which none of paragraphs 4 to 8 applies to the claimant, £5.

10. Notwithstanding paragraphs 6, 7 or 9, where 2 or more payments of the same kind and from the same source are to be taken into account in the same benefit week, there shall be disregarded from each payment the sum specified in that paragraph; but this paragraph shall only apply in the case of a payment which it has not been practicable to treat under regulation 31(1)(b) (date on which income treated as paid) as paid on the first day of the benefit week in which it is due to be paid.

11. Any earnings derived from employment which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.

12. Where a payment of earnings is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

13. Any earnings which are due to be paid before the date of claim and which would otherwise fall to be taken into account in the same benefit week as a payment of the same kind and from the same source.

14. Any earnings of a child or young person except earnings to which paragraph 15 applies.

15. In the case of earnings of a person treated as receiving relevant education under regulation 12(b) (relevant education) and who is engaged in remunerative work, if—

(a) S.I. 1979/591; the relevant amending instrument is S.I. 1980/1975

(b) 1970 c. 9 (N.I.)

- (a) an amount by way of a disabled child premium under Schedule 2 (applicable amounts) is, or but for his accommodation in a home for persons in need, nursing home, hostel or board and lodging accommodation would be, included in the calculation of his applicable amount and his earning capacity is not, by reason of his disability, less than 75 per cent. of that which he would, but for that disability normally be expected to earn, £15;
- (b) in any other case, £5.

16. In this Schedule "part-time employment" means employment in which the person is not to be treated as engaged in remunerative work under regulation 5 or 6 (persons treated, or not treated, as engaged in remunerative work).

Sums to be disregarded in the Calculation of Income other than Earnings

1. Any amount paid by way of tax on income which is taken into account under regulation 40 (calculation of income other than earnings).

2. Any payment in respect of any expenses incurred by a claimant who is—

(a) engaged by a charitable or voluntary body; or

(b) a volunteer,

if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 42(6) (notional income).

3. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.

4. In the case of a payment of statutory sick pay under Part II of the Social Security (Northern Ireland) Order 1982(a) or statutory maternity pay under Part VI of the Order or any remuneration paid by or on behalf of an employer to the claimant who for the time being is unable to work due to illness or maternity—

(a) any amount deducted by way of primary Class 1 contributions;

(b) one half of any sum paid by the claimant by way of a contribution towards an occupational or personal pension scheme.

5. Any housing benefit.

6. Any mobility allowance.

7. Any concessionary payment made to compensate for the non-payment of—

(a) any payment specified in paragraph 6 or 9;

(b) income support.

8. Any mobility supplement or any payment intended to compensate for the non-payment of such a supplement.

9. Any attendance allowance but, where the claimant is in a home for persons in need or a nursing home, only to the extent that it exceeds the amount for the time being specified as the higher rate for the purposes of section 35(3) of the principal Act(b).

10. Any payment to the claimant as holder of the Victoria Cross or of the George Cross or any analogous payment.

11. Any sum in respect of a course of study attended by a child or young person payable by virtue of regulations made under Article 50 or 51 of the Education and Libraries (Northern Ireland) Order 1986(c) (provisions to assist persons to take advantage of educational facilities).

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

(b) Section 35(3) was amended by Article 3(4) of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5))

(c) S.I. 1986/594 (N.I. 3)

12. In the case of a claimant to whom regulation 9(1) (persons treated as available for employment) applies, any sums intended for any expenditure specified in regulation 62(2) (calculation of grant income) necessary as a result of his attendance on his course.

13. In the case of a claimant attending a training course provided under the Adult and Youth Training Programme established under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(a) or 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,

but this paragraph does not apply to any part of any allowance under section 3(3) of that Act expressed to be a personal allowance.

14. Any Job Start Allowance payable pursuant to arrangements made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950.

15. Except in the case of a person to whom Article 24 of the Order (trade disputes) applies and for so long as it applies, subject to paragraphs 36 and 37, £5 of any charitable payment or of any voluntary payment made or due to be made (whether or not so made) at regular intervals other than a payment which is made by a person for the maintenance of any member of his family or his former partner or of his children; and, for the purposes of this paragraph, where a number of such charitable or voluntary payments fall to be taken into account in any one week they shall be treated as though they were one such payment.

16. Subject to paragraphs 36 and 37, £5 of any of the following, namely—

- (a) a war disablement pension or war widow's pension or a payment made to compensate for the non-payment of such a pension;
- (b) a pension paid under the social security scheme of a country outside Great Britain and which either—
 - (i) is analogous to a war disablement pension, or
 - (ii) is paid to a war widow in respect of a person's death but is otherwise analogous to such a pension;
- (c) a pension paid under any special provision made by the law of the Federal Republic of Germany or any part of it or of the Republic of Austria, to victims of National Socialist persecution.

17. Where a claimant receives income under an annuity purchased with a loan which satisfies the following conditions—

- (a) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of 2 or more persons (in this paragraph referred to as "the annuitants") who include the person to whom the loan was made;
- (b) that the interest on the loan is payable by the person to whom it was made or by one of the annuitants;
- (c) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;

(a) 1950 c. 29 (N.I.)

- (d) that the loan was secured on a dwelling in Northern Ireland and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling; and
- (e) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid,

the amount, calculated on a weekly basis equal to—

- (i) where, or in so far as, section 26 of the Finance Act 1982(a) (deduction of tax from certain loan interest) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the basic rate for the year of assessment in which the payment of interest becomes due,
- (ii) in any other case the interest which is payable on the loan without deduction of such a sum.

18. Any payment made to the claimant by a member of his household which is a contribution towards his living and accommodation costs except a payment to which paragraph 19 or 20 applies.

19. Where the claimant occupies a dwelling as his home which is also occupied by a person other than one to whom paragraph 18 refers or one who is provided with board and lodging accommodation and that person is contractually liable to make payments in respect of his occupation of the dwelling to the claimant—

- (a) £4 of any payment made by that person; and
- (b) a further £6·70, where that payment is inclusive of an amount for heating.

20. Where a claimant is employed in providing board and lodging accommodation for which a charge is payable, £35 of the weekly charge paid by each person provided with such accommodation.

21. 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 and for so long as it applies, any income in kind.

22.—(1) Any income derived from capital to which the claimant is or is treated under regulation 52 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraph 1, 2, 4, 6 or 12 of Schedule 10.

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

23. Any income which is payable in a country outside the United Kingdom for such period during which there is prohibition against the transfer to the United Kingdom of that income.

24. Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

25.—(1) Any payment made to the claimant in respect of a child or young person who is a member of his family which is a payment made by a local authority, as

defined in section 107 of the Children Act 1975(a) in pursuance of section 34(6) or, as the case may be, section 50 thereof (contributions to a custodian towards the cost of the accommodation and maintenance of a child), to the extent specified in sub-paragraph (2).

(2) In the case of a child or young person—

- (a) to whom regulation 44(5) (capital in excess of £3,000) applies, the whole payment;
- (b) to whom that regulation does not apply, so much of the weekly amount of the payment as exceeds the applicable amount in respect of that child or young person and where applicable to him any amount by way of a disabled child premium.

26. Any payment made by a Health and Social Services Board or training school within the meaning of section 137 of the Children and Young Persons Act (Northern Ireland) 1968(b) to the claimant with whom a person is boarded out by virtue of arrangements made under section 114(1)(a) of that Act or by a voluntary organisation under section 129(1) of that Act.

27. Any payment made by a Health and Social Services Board, training school or voluntary organisation to the claimant in respect of a person who is not normally a member of the claimant's household but is temporarily in his care.

28. Except in the case of a person to whom Article 24 of the Order (trade disputes) applies and for so long as it applies, any payment made under section 164 of the Children and Young Persons Act (Northern Ireland) 1968 (general functions for promoting the welfare of persons under the age of 18).

29.—(1) Any payment received under an insurance policy, taken out to insure against the risk of being unable to maintain repayments on a loan to which paragraph 7 or 8 of Schedule 3 applies (interest on loans to acquire an interest in the dwelling, or for repairs and improvements to the dwelling, occupied as the home) and used to meet such repayments, to the extent that it does not exceed—

- (a) subject to sub-paragraph (2), the amount, calculated on a weekly basis, of any interest which is excluded under that paragraph;
- (b) the amount of the payment, calculated on a weekly basis, due on the loan attributable to the repayment of capital; and
- (c) the amount, calculated on a weekly basis, of the premium due on that policy.

(2) The amount to which sub-paragraph (1)(a) refers shall be taken into account in calculating the amount to be excluded under this paragraph only for such period during which there is applicable to the claimant 50 per cent. of his eligible interest under paragraph 7 of Schedule 3.

30. Except where paragraph 28 applies, any payment made to the claimant which is intended and used as a contribution towards—

- (a) the amount of eligible interest which is not met under paragraph 7 or 8 of Schedule 3 (interest on loans to acquire an interest in the dwelling, or for repairs and improvements to the dwelling, occupied as the home);
- (b) the capital repayments—
 - (i) where the loan is one specified in paragraph 7(3)(a) or 8(1)(a) of Schedule 3, or

(a) 1975 c. 72; section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)

(b) 1968 c. 34 (N.I.)

- (ii) where the loan is one specified in paragraph 7(3)(b) or 8(1)(b) of Schedule 3 only to the extent that the capital outstanding on that loan represents the capital balance outstanding on the previous loan at the time when the loan was taken out;
- (c) any payment or charge specified in paragraph 1 of Schedule 3 (eligible housing costs) to the extent that that payment or charge has not been met;
- (d) his rent in respect of the dwelling occupied by him as his home but only to the extent that it is not met by housing benefit; or his accommodation charge but only to the extent that the actual charge for the accommodation exceeds the amount determined in accordance with regulation 19 or 20 (homes for persons in need, nursing homes, board and lodging, hostels).

31. Any social fund payment.

32. Any payment of income which under regulation 48 (income treated as capital) is to be treated as capital.

33. Any payment under paragraph 2 of Schedule 6 to the Order (pensioners' Christmas bonus).

34. In the case of a person to whom Article 24 of the Order (trade disputes) applies and for so long as it applies, any payment up to the amount of the relevant sum within the meaning of paragraph 6 of that Article made by a trade union; but, notwithstanding regulation 23 (calculation of income and capital of members of claimant's family and of a polygamous marriage) if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the amount to be disregarded under this paragraph is less than the relevant sum.

35. Any payment which is due to be paid before the date of claim which would otherwise fall to be taken into account in the same benefit week as a payment of the same kind and from the same source.

36. The total of a claimant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under regulation 23(3) (calculation of income and capital of members of claimant's family and of a polygamous marriage) to be disregarded under regulation 63(2)(b) and 64(1)(c) (calculation of covenant income where a contribution is assessed) and paragraphs 15 and 16 shall in no case exceed £5 per week.

37. Notwithstanding paragraph 36 where 2 or more payments of the same kind and from the same source are to be taken into account in the same benefit week, there shall be disregarded from each payment the sum which would otherwise fall to be disregarded under this Schedule; but this paragraph shall only apply in the case of a payment which it has not been practicable to treat under regulation 31(1)(b) (date on which income treated as paid) as paid on the first day of the benefit week in which it is due to be paid.

Capital to be Disregarded

1. The dwelling occupied as the home but, notwithstanding regulation 23 (calculation of income and capital of members of claimant's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

2. Any premises acquired for occupation by the claimant 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.

3. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the claimant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the claimant to complete the purchase.

4. Any premises occupied in whole or in part by—

- (a) a partner or relative of any member of the family where that person is aged 60 or over or is incapacitated;
- (b) the former partner of a claimant where the claimant is not to be treated as occupying a dwelling as his home; but this provision shall not apply where the former partner is a person from whom the claimant is estranged or divorced.

5. Any reversionary interest.

6. The assets of any business owned in whole or in part by the claimant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

7. Any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—

- (a) any payment specified in paragraph 6, 8 or 9 of Schedule 9 (other income to be disregarded);
- (b) an income-related benefit or supplementary benefit, family income supplement under the Family Income Supplements Act (Northern Ireland) 1971(a) or housing benefit under the Housing Benefits (Northern Ireland) Order 1983(b),

but only for a period of 52 weeks from the date of the receipt of the arrears or of the concessionary payment.

8. Any sum—

- (a) paid to the claimant in consequence of damage to, or loss of, the home or any personal possession and intended for its repair or replacement; or
- (b) acquired by the claimant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvements to the home,

(a) 1971 c. 8 (N.I.); repealed with effect from 11th April 1988 by Schedule 10 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

(b) S.I. 1983/1121 (N.I. 14); repealed with effect from 11th April 1988 by Schedule 10 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

and which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to enable the claimant to effect the repairs, replacement or improvements.

9. Any sum—

- (a) deposited with a housing association as a condition of occupying the home;
- (b) which was so deposited and which is to be used for the purchase of another home, for the period of 26 weeks or such longer period as is reasonable in the circumstances to complete the purchase.

10. Any personal possessions except those which had or have been acquired by the claimant with the intention of reducing his capital in order to secure entitlement to supplementary benefit or income support or to increase the amount of that benefit.

11. The value of the right to receive any income under an annuity and the surrender value (if any) of such an annuity.

12.—(1) Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant the value of the trust fund and the value of the right to receive any payment under that trust, for a period of 2 years or such longer period as is reasonable in the circumstances beginning—

- (a) if, at the date of the payment the claimant or his partner is in receipt of an income-related benefit, on that date;
- (b) in any other case, on the date on which an income-related benefit is first payable to the claimant or his partner after the date of that payment,

but, for the purposes of regulations 17, 18, 21, 44(5) and 71 and Schedules 4 and 5 (applicable amounts and modifications in respect of children and young persons) in calculating the capital of a child or young person there shall be no limit as to the period of disregard under this paragraph.

(2) For the purposes of sub-paragraph (1) any reference to an income-related benefit shall be construed as if it included a reference to supplementary benefit.

13. The value of the right to receive any income under a life interest.

14. The value of the right to receive any income which is disregarded under paragraph 11 of Schedule 8 or paragraph 23 of Schedule 9 (earnings or other income to be disregarded).

15. The surrender value of any policy of life insurance.

16. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

17. Except in the case of a person to whom Article 24 of the Order (trade disputes) applies and for so long as it applies, any payment made under section 164 of the Children and Young Persons Act (Northern Ireland) 1968(a) (general function for promoting the welfare of persons under the age of 18).

18. Any social fund payment.

(a) 1968 c. 34 (N.I.); section 164 was amended by Schedule 18 to the Health and Personal Social Services (Northern Ireland) Order 1972

19. Any refund of tax which falls to be deducted under section 26 of the Finance Act 1982(a) (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements in the home.

20. Any capital which under regulations 41 and 44(1) (capital treated as income and modifications in respect of children and young persons) is to be treated as income.

21. Where a payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

(a) 1982 c. 39

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations provide for various matters concerning entitlement to, and the amount of, income support.

Part I contains general provisions affecting the citation, commencement and interpretation of the regulations (regulations 1 to 3).

Part II prescribes the circumstances in which a person's entitlement is to continue notwithstanding his absence from Northern Ireland; provides for what is to be treated as remunerative work and relevant education; specifies the circumstances in which a person is not required to be available for employment, or is to be treated or not treated as in remunerative work, available for employment, or in relevant education; and also provides for a person under the age of 18 to be registered for employment (regulations 4 to 13 and Schedule 1).

Part III makes provision in respect of children and young persons and prescribes, for the purpose of determining the members of a family, the circumstances in which a person is to be treated as responsible for another or as a member of the same household (regulations 14 to 16).

Part IV provides for a claimant's applicable amount (by reference to which the amount of his income support is calculated) to consist of the following: a personal allowance for the claimant and members of his family; where applicable, a family, lone parent, pensioner or disability premium and an amount in respect of mortgage interest payments or other prescribed housing costs. It also makes special provision in the case of polygamous marriages, boarders, certain cases of disqualification from unemployment benefit and other special cases (regulations 17 to 22 and Schedules 2 to 7).

Part V contains provisions for the calculation of income and capital. Chapters II to V make provision for income not expressly disregarded to be taken into account on a weekly basis; define earnings and prescribe the manner in which earnings and other income are to be calculated; they also prescribe the circumstances in which capital is to be treated as income and a person is to be treated as possessing income which he in fact does not possess. Chapter VI makes provision for the calculation of capital; sets the capital limit over which a person is not to be entitled to benefit at £6,000 and provides for a weekly tariff income on capital over £3,000 and under that limit at a rate of £1 for every £250. Chapters VII and VIII make special provision in relation to the calculation of payments made by liable relatives and in respect of students (regulations 23 to 69 and Schedules 8 to 10).

Part VI makes provision for persons from abroad and for persons who are treated as possessing earnings who could not otherwise qualify for income support to be entitled to income support in cases of hardship; and for determining their applicable amount and income and capital (regulations 70 to 72).

Articles 21, 23 and 24 of the Social Security (Northern Ireland) Order 1986 are some of the enabling provisions under which these regulations are made. They are brought into operation, in relation to income support, on 11th April 1988 by virtue of the Social Security (1986 Order) (Commencement No. 7) Order (Northern Ireland) 1987 (S.R. 1987 No. 449 (C. 14)).

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 Social Security (Northern Ireland) Order 1986, from reference to the Social Security Advisory Committee and have not been so referred.