

1988 No. 141

SOCIAL SECURITY

The Social Security (Claims and Payments) (Amendment No. 2) Regulations (Northern Ireland) 1988

Made 8th April 1988

Coming into operation 11th April 1988

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 52(1) and 84(1) of the Social Security (Northern Ireland) Order 1986(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Claims and Payments) (Amendment No. 2) Regulations (Northern Ireland) 1988 and shall come into operation on 11th April 1988.

(2) In these regulations “the principal regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(b).

Amendment of regulation 6 of the principal regulations

2. In regulation 6 of the principal regulations (date of claim)—

(a) in paragraph (1) for “Subject to paragraph (2)” there shall be substituted “Subject to paragraphs (3) and (4)”;

(b) paragraph (2) shall be omitted;

(c) at the end there shall be added the following paragraphs—

“(3) In the case of a claim for income support, family credit or a social fund payment for maternity or funeral expenses, where the time for claiming is extended under regulation 19 the claim shall be treated as made on the first day of the period in respect of which the claim is, by reason of the operation of that regulation, timeously made.

(4) Paragraph (3) shall not apply where the time for claiming income support or family credit has been extended under regulation 19 and the failure to claim within the prescribed time for the purposes of that regulation is for the reason only that the claim has been sent by post.”.

Amendment of regulation 16 of the principal regulations

3. In regulation 16 of the principal regulations (date of entitlement under an award for the purpose of determining the day from which benefit is to be payable and effective date of change of rate)—

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

(b) S.R. 1987 No. 465; the relevant amending regulations are S.R. 1988 No. 67

- (a) after paragraph (1) there shall be inserted the following paragraphs—
- “(1A) Where a claim for family credit is made in accordance with paragraph 7(a) of Schedule 4 for a period following the expiration of an existing award of family credit, entitlement shall begin on the day after the expiration of that award.
- (1B) Where a claim for family credit is made on or after the date on which an up-rating order is made under Article 64(1) of the Order, but before the date on which that up-rating order comes into operation, and—
- (a) an award cannot be made on that claim as at the date it is made but could have been made if that up-rating order were then in operation; and
- (b) the period beginning with the date of claim and ending immediately before the date on which the up-rating order comes into operation does not exceed 28 days,
- entitlement shall begin from the date on which the up-rating order comes into operation.”;
- (b) for paragraph (3) there shall be substituted the following paragraph—
- “(3) For the purposes of this regulation the first day of the benefit week—
- (a) in the case of child benefit is Monday;
- (b) in the case of family credit is Tuesday; and
- (c) in any other case is the day of the week on which the benefit is payable in accordance with regulation 22 (long-term benefits).”;
- (c) in paragraph (4) the words “attendance allowance” and “and family credit” shall be omitted.

Amendment of regulation 17 of the principal regulations

4. In regulation 17 of the principal regulations (duration of awards), after paragraph (1) there shall be inserted the following paragraph—

“(1A) Where an award of income support is made in respect of a married or unmarried couple and one member of the couple is, at the date of claim, a person to whom Article 24 of the Order applies, the award of income support shall cease when the person to whom Article 24 applies returns to work with the same employer.”.

Amendment of regulation 19 of the principal regulations

5. In regulation 19 of the principal regulations (time for claiming benefit)—

- (a) in paragraph (2) for “paragraphs (4) and (5)” there shall be substituted “paragraph (4)”;
- (b) paragraph (5) shall be omitted.

Amendment of regulation 26 of the principal regulations

6. In regulation 26(4) of the principal regulations, for “Article 24(8)” there shall be substituted “Article 24A(a)”.

Amendment of regulation 34A of the principal regulations

7. In regulation 34A of the principal regulations (deductions from benefits and direct payment to third parties)—

- (a) the existing provision shall be numbered as paragraph (1);
- (b) after paragraph (1) there shall be inserted the following paragraph—
 - “(2) Where a social fund payment for maternity or funeral expenses is made, wholly or in part, in respect of a debt which is, or will be, due to a third person, the instrument of payment may be, and in the case of funeral expenses shall be, made payable to that person and it may, in any case, be delivered or sent to that person as a direct payment.”.

Amendment of Schedule 1 to the principal regulations

8. In Schedule 1 to the principal regulations (benefit claimed and other benefit which may be treated as if claimed in addition or in the alternative), in column (2) after “A retirement pension of any other category” there shall be added “or graduated retirement benefit(b)”.

Amendment of Schedule 4 to the principal regulations

9. In Schedule 4 to the principal regulations (prescribed times for claiming benefit), in paragraph 10 after “benefit under” there shall be inserted “section 60 of the Act(c) on the grounds of special hardship or”.

Amendment of Schedule 7 to the principal regulations

10. In Schedule 7 to the principal regulations (manner and time of payment, effective date of change of circumstances and commencement of entitlement in income support cases)—

- (a) in paragraph 2(d) for “Article 24(8)” there shall be substituted “Article 24A” and for “paragraph” there shall be substituted “Article”;
- (b) in paragraph 4—
 - (i) for “In paragraph 3” there shall be substituted “In this Schedule”;
 - (ii) after the definition of “benefit week” there shall be inserted the following definition—

““Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(d);”;

- (c) in paragraph 6—

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- (a) Article 24A was inserted by paragraph 18 of Schedule 4 to the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2))
 - (b) Graduated retirement benefit was paid under sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966 (c. 6 (N.I.)) which were repealed by the Social Security Act 1973 (c. 38) but are continued in force by regulation 2 of S.R. 1978 No. 105 in the modified form set out in Schedule 1 to those regulations as amended by Article 6 of S.R. 1987 No. 458
 - (c) Section 60 was repealed by Schedule 10 to the Social Security (Northern Ireland) Order 1986 with effect from 19th November 1986
 - (d) S.R. 1987 No. 459; the relevant amending regulations are S.R. 1988 No. 146

- (i) in sub-paragraphs (1) and (2), for “Subject to sub-paragraphs (3) and (4)” there shall be substituted “Subject to sub-paragraphs (2A) and (3)”;
- (ii) after sub-paragraph (2) there shall be inserted the following sub-paragraph—
 - “(2A) Where income support is awarded under regulation 17(6) for a definite period which is not a benefit week or a multiple of such a week entitlement shall commence on the date of claim.”;
- (iii) for sub-paragraph (3) there shall be substituted the following sub-paragraph—
 - “(3) In a case where regulation 13 applies, entitlement shall commence on the day which is the relevant day for the purposes of that regulation.”;
- (iv) sub-paragraph (4) shall be omitted;
- (v) for sub-paragraph (5) there shall be substituted the following sub-paragraph—
 - “(5) If a claim is made by the claimant within 3 days of the date on which he became resident at accommodation providing facilities for the rehabilitation of alcoholics or drug addicts and is so resident for the purposes of that rehabilitation, then it shall be treated as having been made on the day he became so resident.”;
- (d) for paragraph 7 there shall be substituted the following paragraph—
 - “7.—(1) Subject to sub-paragraphs (2) to (6), where the amount of income support payable under an award is changed because of a change of circumstances that change shall have effect—
 - (a) where income support is paid in arrears, from the first day of the benefit week in which the change occurs; or
 - (b) where income support is paid in advance, from the date of the change of circumstances if that is the first day of the benefit week and otherwise from the next following such day.
 - (2) In the cases set out in sub-paragraph (3) the change shall have effect from the date of the change of circumstances.
 - (3) The cases referred to in sub-paragraph (2) are where—
 - (a) income support is paid in arrears and entitlement ends for a reason other than that the claimant no longer satisfies the provisions of Article 21(3)(b) of the Order;
 - (b) a child or young person referred to in regulation 16(6) of the Income Support Regulations (child in care of the Department or detained in custody) lives with the claimant for part only of the benefit week;
 - (c) a claimant or his partner (as defined in regulation 2(1) of the Income Support Regulations) enters a nursing home or a home for persons in need (as defined in regulation 19(2) of those regulations) or residential accommodation (as defined in regulation 21(3) of those regulations) for a period of not more than 8 weeks;

- (d) a person referred to in paragraph 1, 2, 3 or 16 of Schedule 7 to the Income Support Regulations either—
 - (i) ceases to be a patient, or
 - (ii) a member of his family ceases to be a patient, in either case for a period of less than a week;
- (e) either—
 - (i) a person referred to in paragraph 4 or 5 of Schedule 7 to the Income Support Regulations enters board and lodging accommodation (as defined in regulation 20(2) of those regulations), or
 - (ii) a member of his family enters such accommodation;
- (f) a person to whom Article 24 of the Order applies either—
 - (i) becomes incapable of work by reason of disease or bodily or mental disablement, or
 - (ii) enters the maternity period (as defined in Article 24(2) of the Order);
- (g) during the currency of a claim the claimant makes a claim for a relevant social security benefit and as a result his benefit week changes.

(4) Where, in the cases set out in sub-paragraph (3)(b) to (f), the circumstances which have caused the award to be changed cease to apply and the award is changed again, that second change of circumstances shall take effect from the date of the second change.

(5) Where income is treated as paid on a particular day under regulation 31(1)(b) or (2) of the Income Support Regulations (date on which income is treated as paid) any change of circumstances resulting from that payment shall have effect on the day on which it was treated as paid.

(6) Where the change of circumstances requires a reduction in the amount of income support then, if the Department certifies that it is impracticable to give effect to that reduction from any date specified in the previous sub-paragraphs then, except where sub-paragraph (3)(g) or (5) applies, the change shall have effect from the first day of the following benefit week.”.

Amendment of Schedule 8A to the principal regulations

11. In Schedule 8A to the principal regulations (deductions from benefits and direct payment to third parties)—

- (a) in paragraph 1, after the definition of “family” there shall be inserted the following definition—

““5 per cent. of the personal allowance for a single claimant aged not less than 25 years” and “10 per cent. of the personal allowance for a single claimant aged not less than 25 years” means, in each case, where the percentage is not a multiple of 5 pence the sum obtained by rounding that 5 per cent. or that 10 per cent., as the case may be, to the next higher such multiple;”;

(b) in paragraphs 3(2)(a), 5(5), 6(2)(a) and 7(3), the words in parenthesis shall be omitted.

Savings

12. After regulation 47 of the principal regulations there shall be added the following regulation—

“Savings”

48.—(1) Notwithstanding the repeal of the Family Income Supplements Act (Northern Ireland) 1971(a) and provisions of the Supplementary Benefits (Northern Ireland) Order 1977(b) those enactments and the regulations made thereunder shall continue to apply to any claim for family income supplement or supplementary benefit whether made before or after the coming into operation of these regulations.

(2) In this regulation—

“family income supplement” means benefit under the Family Income Supplements Act (Northern Ireland) 1971;

“supplementary benefit” means benefit under Part II of the Supplementary Benefits (Northern Ireland) Order 1977.”.

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

(L.S.)

A. N. Burns

Assistant Secretary

(a) 1971 c. 8 (N.I.)

(b) 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 (S.I. 1980/870 (N.I. 8)), are set out in Part II of that Schedule

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987. They correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30), are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

The regulations contain amendments—

- (a) flowing from Article 5 of the Social Security (Northern Ireland) Order 1988 (regulations 2, 3(a) and (b), and 3(c) in so far as it relates to family credit) and from paragraph 18 of Schedule 4 and the repeal in Schedule 5 to that Order of Article 24(8) of the Social Security (Northern Ireland) Order 1986 (regulations 4, 6 and 10(a));
- (b) relating to the procedure for claiming family credit, income support and social fund payments for maternity or funeral expenses (regulations 2(c), 5 and 10);
- (c) providing that a social fund payment for maternity or funeral expenses made in respect of a debt may be, and in the case of funeral expenses shall be, made direct to a creditor (regulation 7);
- (d) saving the Family Income Supplements Act (Northern Ireland) 1971 and the Supplementary Benefits (Northern Ireland) Order 1977 and the regulations made thereunder for the purposes of claims for, and payments of, family income supplement and supplementary benefit (regulation 12);
- (e) making minor corrections (regulations 8, 9 and 11).