

1988 No. 274

SOCIAL SECURITY

**The Income Support (General) (Amendment No. 3)
Regulations (Northern Ireland) 1988**

Made 29th July 1988

Coming into operation—
regulations 1 and 3 29th August 1988
regulations 2 and 4 to 10
and the Schedule 12th September 1988

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(3)(a) and (d) and (12)(f) and 23(1), (5), (8) and (9)(a) of the Social Security (Northern Ireland) Order 1986(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1988 and shall come into operation as follows—

- (a) regulations 1 and 3 on 29th August 1988;
- (b) regulations 2 and 4 to 10 and the Schedule on 12th September 1988.

(2) In these regulations “the principal regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(b).

Amendment of regulation 2 of the principal regulations

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

- (a) after the definition of “premises” there shall be inserted the following definition—

“ “registered person” means a person registered with a body mentioned in regulation 9B(1)(a)(i) to (iii) of the Child Benefit (General) Regulations (Northern Ireland) 1979(c) for—

- (a) work; or
- (b) training under the youth training programme;”;

(a) S.I. 1986/1888 (N.I. 18); Article 21(3)(a) was amended by Article 6(1) of the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2)). Article 81(1) provides for section 155(1) to (3A) of the Social Security (Northern Ireland) Act 1975 (c. 15) (extent of powers) to apply to the regulation—making powers conferred by this Order; the said section 155(3A) was inserted by Article 63(1)

(b) S.R. 1987 No. 459; the relevant amending regulations are S.R. 1988 Nos. 146 and 193

(c) S.R. 1979 No. 5; the relevant amending regulations are S.R. 1980 No. 261, S.R. 1982 No. 114, S.R. 1987 No. 130 and S.R. 1988 No. 273

(b) after the definition of “young person” there shall be added the following definition—

“ “youth training programme” means arrangements made under section 1 of the Employment and Training Act (Northern Ireland) 1950(a) (general functions of Department as to employment and training for employment) for purposes which include the training of persons who, at the beginning of their training, are under the age of 18.”.

Amendment of regulation 12 of the principal regulations

3. In regulation 12 of the principal regulations (relevant education) “except that, in a case” to the end of that regulation shall be omitted.

Insertion of regulation 13A in the principal regulations

4. After regulation 13 of the principal regulations (circumstances in which persons in relevant education are to be entitled to income support) there shall be inserted the following regulation—

“Persons under 18 years

13A.—(1) A person to whom this regulation applies and for the period specified in relation to him is a person within the prescribed circumstances and period mentioned in Article 21(3)(a) of the Order (conditions of entitlement for persons under 18).

(2) This regulation applies to a person of or over the age of 16—

- (a) to whom any paragraph of Schedule 1A (circumstances in which a person aged 16 or 17 is eligible for income support) applies; and
- (b) for the period for which that paragraph applies or, if the relevant date specified in paragraph (3)(a) or (b) falls within that period, for so much thereof as falls before that date.

(3) In the case of a person—

- (a) to whom any paragraph in Part I of Schedule 1A (persons eligible until 18) applies, the relevant date is the date on which he attains the age of 18; or
- (b) other than one to whom sub-paragraph (a) applies, to whom any paragraph in Part II of that Schedule (persons eligible until the relevant date) applies, the relevant date is the date determined in accordance with paragraph (7).

(4) This regulation also applies to a person of, or over, the age of 16, other than one to whom any paragraph in Schedule 1A applies who is—

- (a) incapable of work and training under the youth training programme by reason of some disease or bodily or mental disablement if, in the opinion of a medical practitioner, that incapacity is likely to end within a period of less than 12 months;
- (b) a student, except during a period of study; or

(a) 1950 c. 29 (N.I.); section 1 is amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

- (c) a registered person who has been discharged from any institution to which the Treatment of Offenders Act (Northern Ireland) 1968(a) applied after the relevant date determined in accordance with paragraph (7) and who is within the circumstances specified in Part II of Schedule 1A.
- (5) Paragraph (4)(a) and (b) shall have effect for a period—
- (a) beginning on that date on which paragraph (4)(a) or (b), as the case may be, applies to that person which first falls on or after the relevant date determined in accordance with paragraph (7); and
- (b) ending on the date on which that person attains the age of 18 or the date on which paragraph (4)(a) or (b), as the case may be, ceases to apply to him, whichever first occurs.
- (6) Paragraph (4)(c) shall have effect for a period—
- (a) beginning on the date on which paragraph (4)(c) applies to that person which first falls on or after the relevant date determined in accordance with paragraph (7); and
- (b) ending either 8 weeks after the date on which that period begins or on the date on which that person attains the age of 18, whichever first occurs.
- (7) For the purposes of paragraphs (3)(b) and (4) to (6)—
- (a) in the case of a person who ceases to be treated as a child by virtue of Article 4(1)(a) of the Child Benefit (Northern Ireland) Order 1975(b) (meaning of child) or regulation 7 of the Child Benefit (General) Regulations (Northern Ireland) 1979 (circumstances in which a person who has ceased to receive full-time education is to continue to be treated as a child)—
- (i) on or after the first Monday in September, but before the first Monday in January of the following year, the relevant date is the last day of the week which falls immediately before the week which includes the first Monday in January in that year,
- (ii) on or after the first Monday in January but before the Monday following Easter Monday in that year, the relevant date is the last day of the week which falls 12 weeks after the week which includes the first Monday in January in that year, or
- (iii) at any other time of the year, the relevant date is the last day of the week which falls 12 weeks after the week which includes the Monday following Easter Monday in that year; or
- (b) in the case of a person who was not treated as a child by virtue of Article 4(1)(a) of that Order immediately before he was 16 and who has not been treated as a child by virtue of regulation 7 of those regulations, the relevant date is the date determined in accordance with sub-paragraph (a)(i), (ii) or (iii) as if he had ceased full-time education on the first date on which education

(a) 1968 c. 29 (N.I.)

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

ceased to be compulsory for a person of his age in Northern Ireland.”.

Amendment of regulation 18 of the principal regulations

5. In regulation 18 of the principal regulations (polygamous marriages)—
- (a) for “Subject to regulations” there shall be substituted “(1) Subject to paragraph (2) and regulations”;
 - (b) in paragraph (1)(b) for “paragraph 1(3)(b)” there shall be substituted “paragraph 1(3)(c)”; and
 - (c) after paragraph (1) there shall be added the following paragraph—
 - “(2) In the case of a partner who is aged less than 18, the amount which applies in respect of that partner shall be nil unless—
 - (a) that partner is treated as responsible for a child; or
 - (b) that partner is a person who—
 - (i) had he not been a member of a polygamous marriage would have been eligible for income support by virtue of regulation 13A (persons under 18 years), or
 - (ii) is a person in respect of whom there is a direction under Article 21(4A) of the Order(a) (income support to avoid severe hardship).”.

Amendment of regulation 23 of the principal regulations

- 6.—(1) In regulation 23 of the principal regulations (calculation of income and capital)—
- (a) in paragraph (1) for the words from the beginning to “(modifications in respect of children and young persons),” there shall be substituted “Subject to paragraphs (2) and (4) and to regulation 44 (modifications in respect of children and young persons), the income and capital of a claimant’s partner and”;
 - (b) in paragraph (3) at the beginning there shall be inserted “Subject to paragraph (5),”; and
 - (c) after paragraph (3) there shall be inserted the following paragraphs—
 - “(4) Where at least one member of a couple is aged less than 18 and the applicable amount of the couple falls to be determined under paragraph 1(3)(b), (e) or (f) of Schedule 2 (applicable amounts), the income of the claimant’s partner shall not be treated as the income of the claimant to the extent that—
 - (a) in the case of a couple where both members are aged less than 18, the amount specified in paragraph 1(3)(a) of that Schedule exceeds the amount specified in paragraph 1(3)(b) of that Schedule; and
 - (b) in the case of a couple where only one member is aged less than 18, the amount specified in paragraph 1(3)(d) of that Schedule exceeds the amount which applies in that case which is specified in paragraph 1(3)(e) or (f) of that Schedule.

(a) Article 21(4A) was inserted by Article 6(2) of the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2))

(5) Where a member of a polygamous marriage is a partner aged less than 18 and the amount which applies in respect of him under regulation 18(2) (polygamous marriages) is nil, the claimant shall not be treated as possessing the income of that partner to the extent that an amount in respect of him would have been included in the applicable amount if he had fallen within the circumstances set out in regulation 18(2)(a) or (b).”.

Amendment of Schedule 1 to the principal regulations

7. In Schedule 1 to the principal regulations (persons not required to be available for employment), after paragraph 21 (persons in custody) there shall be inserted the following paragraph—

“Member of couple looking after children while other member temporarily abroad

22. A person who is a member of a couple and who is treated as responsible for a child who is a member of his household where the other member of that couple is temporarily abroad.”.

Insertion of Schedule 1A in the principal regulations

8. After Schedule 1 to the principal regulations (persons not required to be available for employment) there shall be inserted Schedule 1A as set out in the Schedule to these regulations.

Amendment of Schedule 2 to the principal regulations

9. In Schedule 2 to the principal regulations (applicable amounts) for sub-paragraph (3) of paragraph 1 (personal allowances) there shall be substituted the following sub-paragraph—

“(3) Couple—

- (a) where both members are persons aged less than 18 and—
 - (i) at least one of them is treated as responsible for a child,
 - (ii) had they not been members of a couple, each would be eligible for income support under regulation 13A (persons under 18 years),
 - (iii) they are married and each member is either a registered person or a person to whom Part I of Schedule 1A applies,
 - (iv) there is a direction under Article 21(4A) of the Order (income support to avoid severe hardship) in respect of each member, or

(3) (a) £38·80;

- (v) there is a direction under Article 21(4A) of the Order in respect of one of them and the other is eligible for income support under regulation 13A;
- (b) where both members are aged less than 18 and sub-paragraph (3)(a) does not apply but one member of the couple—
- (i) is eligible for income support under regulation 13A, or
- (ii) is the subject of a direction under Article 21(4A) of the Order;
- (c) where both members are aged not less than 18;
- (d) where one member is aged not less than 18 and the other member is a person under 18 who—
- (i) is eligible for income support under regulation 13A, or
- (ii) is the subject of a direction under Article 21(4A) of the Order;
- (e) where one member is aged not less than 18 but less than 25 and the other member is a person under 18 who—
- (i) is not eligible for income support under regulation 13A, or
- (ii) is not the subject of a direction under Article 21(4A) of the Order;
- (f) where one member is aged not less than 25 and the other member is a person under 18 who—
- (i) is not eligible for income support under regulation 13A, and
- (ii) is not the subject of a direction under Article 21(4A) of the Order.”.

(b) £19·40;

(c) £51·45;

(d) £51·45;

(e) £26·05;

(f) £33·40;

Amendment of Schedule 5 to the principal regulations

10. In Schedule 5 to the principal regulations (applicable amounts of persons in board and lodging accommodation or hostels)—

(a) in paragraph 1(1)(b), after “for each member of his family” there shall be inserted “, subject to sub-paragraph (3),”;

(b) after paragraph 1(2) there shall be inserted the following sub-paragraph—

“(3) No amount shall be included for personal expenses for a partner aged less than 18 other than one to whom regulation 13A applies or one who is the subject of a direction under Article 21(4A) of the Order.”.

Sealed with the Official Seal of the Department of Health and Social Services on 29th July 1988.

(L.S.)

C. Davie

Assistant Secretary

Circumstances in which a person aged 16 or 17 is eligible for Income Support

PART I

PERSONS ELIGIBLE UNTIL 18

1. A person who is not required to be available for employment under any of the following paragraphs of Schedule 1 (persons not required to be available for employment)—

paragraph 1	(lone parents)
paragraph 2	(single persons looking after foster children)
paragraph 3	(persons temporarily looking after another person)
paragraph 4	(persons caring for another person)
paragraph 8	(blind persons)
paragraph 9	(pregnancy)
paragraph 10	(persons in education)
paragraph 11	(training allowances)
paragraph 16	(refugees)
paragraph 20	(persons from abroad)
paragraph 22	(member of couple looking after children while other member temporarily abroad).

2. A person who is incapable of work and training under the youth training programme, by reason of some disease or bodily or mental disablement if, in the opinion of a medical practitioner, that incapacity is unlikely to end within 12 months because of the severity of that disease or disablement.

3. A person who is a member of a couple and is treated as responsible for a child who is a member of his household.

4. A person who is temporarily laid off employment and is available to be re-engaged in that employment.

PART II

PERSONS ELIGIBLE UNTIL THE RELEVANT DATE DETERMINED UNDER REGULATION 13A(3)(b)

5. A registered person who is a member of a married couple where the other member of that couple is aged not less than 18 or is a registered person or a person to whom Part I applies.

6. A registered person who has no parent nor any person acting in the place of his parents.

7. A registered person who—

(a) is not living with his parents nor any person acting in the place of his parents; and

- (b) was in the care of the Department under a relevant enactment and whilst in that care was not living with his parents or any close relative, or was in custody in any institution to which the Children and Young Persons Act (Northern Ireland) 1968(a) or the Treatment of Offenders Act (Northern Ireland) 1968 applied, immediately before he attained the age of 16.

8. A registered person who is in accommodation which is other than his parental home, or the home of a person acting in the place of his parents, who entered that accommodation—

- (a) as part of a programme of rehabilitation or resettlement, that programme being under the guidance of the Department, any other government department or the probation and after-care service;
- (b) in order to avoid physical or sexual abuse; or
- (c) because of a mental or physical handicap or illness and needs such accommodation because of his handicap or illness.

9. A registered person who is living away from his parents and any person who is 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 his parents are, or that person is—

- (a) chronically sick or mentally or physically disabled;
- (b) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
- (c) prohibited from entering or re-entering Northern Ireland.

10. In this Schedule—

- (a) any reference to a person acting in the place of a registered person's parents includes a reference to the Department, any other government department or voluntary organisation where the registered person is in their care under a relevant enactment, or to a person with whom the registered person is boarded out by the Department or voluntary organisation whether or not any payment is made by them; and
- (b) "chronically sick or mentally or physically disabled" has the same meaning as in regulation 13(3)(b) (circumstances in which persons in relevant education are to be entitled to income support)."

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Income Support (General) Regulations (Northern Ireland) 1987.

They extend the period during which most young people are ineligible to income support on leaving relevant education (regulation 3); prescribe the circumstances in which persons under the age of 18 years may be entitled to income support and the period of entitlement (regulations 4 and 8); amend the provisions under which applicable amounts are calculated in respect of members of polygamous marriages (regulations 5 and 10) and couples (regulations 9 and 10) which include partners under the age of 18 and specify the part of the income of partners under that age which is not to be aggregated with that of claimants when no increase in the applicable amount of claimants is made on account of such partners (regulation 6). The regulations also provide for a claimant who is a member of a couple responsible for a child, and whose partner is temporarily abroad, not to be required to be available for employment (regulation 7).

The amendment to Article 21(3)(a) of the Social Security (Northern Ireland) Order 1986, are of the enabling provisions under which these regulations are made, was brought into operation on 12th September 1988 by virtue of the Social Security (1988 Order) (Commencement No. 2) Order (Northern Ireland) 1988 (S.R. 1988 No. 254 (C. 11)).

The regulations are made before the expiry of 12 months from the commencement of the provisions under which they are made; they are accordingly exempt by virtue of Article 62(5) of the Social Security (Northern Ireland) Order 1986, from reference to the Social Security Advisory Committee.