

1991 No. 474

SOCIAL SECURITY

**The Income Support (General) (Amendment No. 5) Regulations
(Northern Ireland) 1991**

Made 23rd October 1991

Coming into operation 11th November 1991

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 23(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 Income Support (General) (Amendment No. 5) Regulations (Northern Ireland) 1991 and shall come into operation, in relation to a particular claimant, at the beginning of the first benefit week to commence for that claimant on or after 11th November 1991.

(2) In paragraph (1) the expressions “benefit week” and “claimant” have the same meaning as in the principal regulations and in these regulations “the principal regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(b).

Amendment of regulation 3 of the principal regulations

2. In regulation 3 of the principal regulations (definition of non-dependant)—

(a) in paragraph (1) for “to whom paragraph (2) applies” there shall be substituted “to whom paragraph (2), (2A) or (2B) applies”;

(b) for paragraph (2) there shall be substituted the following paragraphs—
“(2) This paragraph applies to—

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

(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 lives with the claimant in order to care for him or for the claimant’s partner and who is engaged for that purpose by a charitable or voluntary body (other than a Health and Social

(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) S.R. 1987 No. 459; the relevant amending regulations are S.R. 1989 No. 139 and S.R. 1990 Nos. 131, 346 and 387

Services Board) which makes a charge to the claimant or the claimant's partner for the care provided by that person;

(d) the partner of a person to whom sub-paragraph (c) applies.

(2A) This paragraph applies to a person, other than a close relative of the claimant or the claimant's partner—

(a) who is liable to make payments on a commercial basis to the claimant or the claimant's partner in respect of his occupation of the claimant's dwelling;

(b) to whom the claimant or the claimant's partner is liable to make payments on a commercial basis in respect of his occupation of that person's dwelling;

(c) who is a member of the household of a person to whom sub-paragraph (a) or (b) applies.

(2B) Subject to paragraph (2C), this paragraph applies to—

(a) a person who jointly occupies the claimant's dwelling and who is either—

(i) a co-owner of that dwelling with the claimant or the claimant's partner (whether or not there are other co-owners), or

(ii) jointly liable with the claimant or the claimant's partner to make payments to a landlord in respect of his occupation of that dwelling;

(b) a partner of a person to whom sub-paragraph (a) applies.

(2C) Where a person is a close relative of the claimant or the claimant's partner, paragraph (2B) shall apply to him only if the claimant's, or the claimant's partner's, co-ownership of, or joint liability to make payments to a landlord in respect of his occupation of the dwelling arose either before 11th April 1988, or, if later, on or before the date upon which the claimant or the claimant's partner first occupied the dwelling in question."

Amendment of Schedule 3 to the principal regulations

3. In Schedule 3 to the principal regulations (housing costs), in paragraph 11 (non-dependant deductions)—

(a) in sub-paragraph (7)(d) "or" shall be omitted;

(b) after sub-paragraph (7)(e) there shall be added the following head—

"or

(f) to whom, but for paragraph (2C) of regulation 3 (definition of non-dependant), paragraph (2B) of that regulation would apply."

Saving provision in relation to severe disability premium

4.—(1) The provisions of this regulation are subject to regulation 5.

(2) Where paragraph (3), (4), (5) or (6) applies to a claimant, sub-paragraph (2)(a)(ii), or, as the case may be, sub-paragraph (2)(b)(iii) of

paragraph 13 of Schedule 2 to the principal regulations shall have effect in relation to him as if the relevant amendment had not been made.

(3) This paragraph applies to a claimant who satisfied both the qualifying conditions in the week immediately preceding 21st October 1991.

(4) This paragraph applies to a claimant—

(a) who satisfied both the qualifying conditions in at least one of the 8 weeks immediately preceding 21st October 1991, but did not satisfy either or both of those conditions in the week immediately preceding that date; and

(b) who in a week commencing not more than 8 weeks after the date on which he last satisfied both the qualifying conditions, would again have satisfied both those conditions if the relevant amendment had not been made.

(5) This paragraph applies to a claimant—

(a) who ceased to be entitled to income support because he became engaged in remunerative work for a period not exceeding the permitted period determined in accordance with regulation 6 and that period had commenced but had not ended before 21st October 1991;

(b) who satisfied both the qualifying conditions in the week ending on the day before the first day that period commenced; and

(c) who in the week which commences on the day immediately following the day on which that period ends, would again have satisfied both the qualifying conditions if the relevant amendment had not been made.

(6) This paragraph applies to a claimant—

(a) who satisfied both the qualifying conditions immediately before he participated in provision or arrangements for training under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945(a) or section 1(1) of the Employment and Training Act (Northern Ireland) 1950(b) or attended a course at an employment rehabilitation unit established under any of those sections and he had begun the training or joined the course before 21st October 1991 and was still continuing with the training or course at that date; and

(b) who in the week which commences on the day immediately following the last day he attended the training or course, would again have satisfied both the qualifying conditions if the relevant amendment had not been made.

(7) The “qualifying conditions” mean the 2 qualifying conditions set out in paragraph (8)(a) and (b).

(8) For the purposes of paragraph (7)—

(a) the first qualifying condition is that the claimant—

(a) 1945 c. 6 (N.I.); sections 2 and 3 were amended by section 1 of the Disabled Persons (Employment) Act (Northern Ireland) 1960 (c. 4 (N.I.)) and Schedule 18 to the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))

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

- (i) has made a claim for income support which has not been determined, but had it been determined and an award made, his applicable amount would have included severe disability premium,
- (ii) has a current award of income support and the applicable amount appropriate to that award includes severe disability premium, or
- (iii) has a current award of income support and has before 21st October 1991, made an application in writing in accordance with section 104(2) of the principal Act(a) (review of decisions) requesting a review of that award, where the ground, or one of the grounds for review, is that—
 - (aa) he has become a co-owner, with a close relative, of the dwelling which he and that close relative jointly occupy as their home, or
 - (bb) he has become jointly liable, with a close relative, to make payments to a landlord in respect of the dwelling which he and that close relative jointly occupy as their home,

whether or not there are other co-owners or other persons jointly liable to make such payments and, if revised, the applicable amount appropriate to the award includes severe disability premium in respect of a period prior to 21st October 1991;

- (b) the second qualifying condition is that the person is—
 - (i) a co-owner, with a close relative, of the dwelling he and that close relative jointly occupy as their home, whether or not there are other co-owners, or
 - (ii) jointly liable, with a close relative, to make payments to a landlord in respect of the dwelling he and that close relative jointly occupy as their home, whether or not there are other persons jointly liable to make such payments.

(9) For the purposes of paragraph (8)(b) and regulation 5(2)(b), where a person has satisfied the second qualifying condition, but his circumstances change, he shall nonetheless be treated as satisfying it for so long as he satisfies any one of the following conditions, namely—

- (a) he becomes a co-owner, with a close relative, of the dwelling he and that close relative jointly occupy as their home, in respect of which he and that close relative, or any other close relative, were jointly liable to make payments to a landlord in respect of their occupation (whether or not there are other co-owners);
- (b) he becomes jointly liable, with a close relative, to make payments to a landlord in respect of the dwelling he and that close relative jointly occupy as their home (whether or not there are other persons jointly liable to make such payments) in respect of which he and that close relative, or he and any other close relative, were co-owners;

(a) Section 104(2) was amended by Article 3(1) and (3) of the Social Security Adjudications (Northern Ireland) Order 1983 (S.I. 1983/1524 (N.I. 17))

- (c) he, together with a close relative, having been either a co-owner of, or jointly liable to make payments to a landlord in respect of, the dwelling he and that close relative jointly occupied as their home, becomes, with that close relative or any other close relative, either a co-owner of, or jointly liable to make payments to a landlord in respect of, any other dwelling which he and the close relative jointly occupy as their home (whether or not there are other co-owners, or other persons jointly liable to make such payments).

(10) In this regulation “the relevant amendment” means the amendment of regulation 3 (definition of non-dependant) of the principal regulations made by regulation 2 of these regulations.

Circumstances in which regulation 4 ceases to apply

5.—(1) Regulation 4 shall cease to apply to a claimant, or his partner, on the relevant day and shall not apply on any day thereafter.

(2) The relevant day is the first day after a period of 8 consecutive weeks throughout which—

- (a) subject to paragraph (3), he is not entitled to income support; or
- (b) he is unable to satisfy, or to be treated as satisfying, the second qualifying condition.

(3) For the purpose of calculating a period in excess of 8 weeks in paragraph (2)(a) the following periods shall be disregarded—

- (a) where the claimant, or his partner, becomes engaged in remunerative work, any period during which he, or his partner, was not entitled to income support, not exceeding the permitted period determined in accordance with regulation 6;
- (b) any period during which the claimant, or his partner, was participating in provision or arrangements for training under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or section 1(1) of the Employment and Training Act (Northern Ireland) 1950 or attending a course at an employment rehabilitation unit established under any of those sections.

Permitted period

6.—(1) For the purposes of regulations 4(5) and 5(3)(a), where a claimant has ceased to be entitled to income support because he or his partner became engaged in remunerative work the permitted period, subject to paragraph (2), shall be 12 consecutive weeks.

(2) Subject to paragraph (3), where that claimant, or his partner, has ceased to be engaged in the remunerative work referred to in paragraph (1) the permitted period shall be 8 weeks where—

- (a) the claimant’s weekly applicable amount is reduced under regulation 22 of the principal regulations (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification) because of the cessation of that work;
- (b) the claimant, or his partner, has ceased to be engaged in that work within 6 weeks of the day he started it; or

(c) at any time during the period of 26 weeks immediately preceding the day he started that work, the claimant, or his partner, who has ceased to be so engaged—

- (i) was engaged in remunerative work,
- (ii) was in relevant education, or
- (iii) was a student.

(3) Paragraph (2)(b) or (c) shall not apply if, by virtue of section 20A (2) of the principal Act(a) (exemptions from disqualification for unemployment benefit), the claimant who has ceased to be engaged in remunerative work is exempted from disqualification for receiving unemployment benefit.

Sealed with the Official Seal of the Department of Health and Social Services on 23rd October 1991.

(L.S.)

A. N. Burns

Assistant Secretary

(a) Section 20A was inserted by Article 14(4) of the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13))

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 definition of “non-dependant” for the purposes of severe disability premium, subject to certain exceptions and savings.

The regulations correspond to provision contained in regulations made by the Secretary of State for Social Security 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.