

1994 No. 77

SOCIAL SECURITY

**The Income-Related Benefits (Miscellaneous Amendments)
Regulations (Northern Ireland) 1994***Made**7th March 1994**Coming into operation in accordance with regulation 1(1)*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1)(a), (b) and (c), 123(1)(d)(i), 131(1), 132(3) and (4)(a) and (b), 133(2)(d)(ii) and 171(5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(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-Related Benefits (Miscellaneous Amendments) Regulations (Northern Ireland) 1994 and shall come into operation—

- (a) for the purposes of this regulation and regulation 4(1), (7) and (8)(a), on 31st March 1994;
- (b) for the purposes of regulation 4(2) to (6), (8)(b) and (c) and (9), on 11th April 1994;
- (c) for the purposes of regulations 2 and 3, on 12th April 1994.

(2) Regulation 4(7) and (8)(a) shall have effect in relation to any particular claimant at the beginning of the first benefit week to commence for that claimant on or after 31st March 1994 which applies in his case.

(3) Regulation 4(2) to (6), (8)(b) and (c) and (9) shall have effect in relation to any particular claimant at the beginning of the first benefit week to commence for that claimant on or after 11th April 1994 which applies in his case.

(4) For the purposes of paragraphs (2) and (3), the expressions “claimant” and “benefit week” have the same meanings as in the Income Support Regulations.

(5) Regulations 2 and 3 shall have effect in relation to any particular claimant—

- (a) except where sub-paragraph (b) applies, on 12th April 1994, or
- (b) where a claimant has an award of family credit or disability working allowance which is current on 11th April 1994, on the day following the expiration of that award.

(6) In these regulations—

“the Disability Working Allowance Regulations” means the Disability Working Allowance (General) Regulations (Northern Ireland) 1992(a);

“the Family Credit Regulations” means the Family Credit (General) Regulations (Northern Ireland) 1987(b);

“the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(c).

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

Amendment of the Disability Working Allowance Regulations

2.—(1) The Disability Working Allowance Regulations shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 22(4) (calculation of net earnings of employed earners) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages applicable at the date of claim in accordance with section 8(1)(a) and (b) of that Act, and”.

(3) In regulation 23 (calculation of bonus or commission)(e) for paragraph (b) there shall be substituted the following paragraph—

“(b) an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to that part of the earnings the main primary percentage applicable at the date of claim, and”.

(4) In regulation 25 (calculation of net profit of self-employed earners)(f)—

(a) for “one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme” in each place where those words occur there shall be substituted “one half of the amount in respect of any qualifying premium calculated in accordance with paragraph (14A)”(g);

(a) S.R. 1992 No. 78; relevant amending regulations are S.R. 1992 No. 403 and S.R. 1993 Nos. 120 and 373

(b) S.R. 1987 No. 463; relevant amending rules are S.R. 1988 Nos. 131, 303 and 423, S.R. 1990 No. 138, S.R. 1992 Nos. 18, 148 and 403 and S.R. 1993 Nos. 120 and 373

(c) S.R. 1987 No. 459; relevant amending rules are S.R. 1988 Nos. 146, 318 and 431, S.R. 1989 Nos. 139, 249 and 395, S.R. 1990 Nos. 33, 131 and 346, S.R. 1991 No. 204, S.R. 1992 Nos. 18 and 201 and S.R. 1993 Nos. 120, 149, 233 and 373

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

(e) Relevant amending regulations are S.R. 1992 No. 403

(f) Relevant amending regulations are S.R. 1993 No. 373

(g) Paragraph (14A) is inserted by regulation 2(4)(c) of these regulations

- (b) in paragraph (14) for “In this regulation” there shall be substituted—
“In this regulation—
- (a) “qualifying premium” means any premium which at the date of claim is payable periodically in respect of a retirement annuity contract or a personal pension scheme;
- (b) ”;
- (c) after paragraph (14) there shall be inserted the following paragraph—
“(14A) The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying premium shall be determined—
- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;
- (b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.”.
- (5) In regulation 29(6) (notional income) for sub-paragraph (b) there shall be substituted the following sub-paragraph—
“(b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages applicable at the date of claim in accordance with section 8(1)(a) and (b) of that Act, and”.
- (6) In regulation 46 (other amounts to be disregarded)—
- (a) for “other than grant income and covenant income” there shall be substituted “other than grant income, covenant income and loans treated as income in accordance with regulation 47”;
- (b) after “sums disregarded under regulations 42(2)” there shall be inserted “and (2A)”(a).
- (7) In Schedule 3 (sums to be disregarded in the calculation of income other than earnings)(b)—
- (a) for paragraph 19 there shall be substituted the following paragraph—
“19. Where the claimant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 18 or 39 refers, and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

(a) Paragraph (2A) was inserted by regulation 2(10) of S.R. 1992 No. 403

(b) Relevant amending regulations are S.R. 1993 No. 120

- (a) £4 of the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, and
 - (b) a further £8·60, where the aggregate of any such payments is inclusive of an amount for heating.”;
- (b) for paragraph 39 there shall be substituted the following paragraph—
- “39. Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—
- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20·00, 100 per cent. of such payments, or
 - (b) where the aggregate of any such payments exceeds £20·00, £20·00 and 50 per cent. of the excess over £20·00.”;
- (c) after paragraph 49 there shall be added the following paragraph—
- “50. Where the claimant is in receipt of any benefit under Parts II, III or V of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part IV (increases for dependants) or section 106(a) (unemployability supplement) of that Act where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.”.

Amendment of the Family Credit Regulations

3.—(1) The Family Credit Regulations shall be amended in accordance with paragraphs (2) to (14).

(2) In regulation 2(1) (interpretation)—

- (a) in the definition of “assessment period” (a) for “regulation 14” there shall be substituted “regulation 14 or, as the case may be, 14A” (b);
- (b) after the definition of “date of claim” there shall be inserted the following definition—

“ “director” means a director of a company, and for this purpose “company” means a company within the meaning of Article 3(1) of the Companies (Northern Ireland) Order 1986(c) or a body corporate to which, by virtue of Article 667 of that Order, any provision of that Order applies;”.

(3) In regulation 14(1) (normal weekly earnings of employed earners)(d)—

(a) The definition of “assessment period” was inserted by regulation 2(a) of S.R. 1992 No. 148
 (b) Regulation 14A is inserted by regulation 3(4) of these regulations
 (c) S.I. 1986/1032 (N.I. 6)
 (d) Relevant amending regulations are S.R. 1992 No. 148

- (a) after “an employed earner,” there shall be inserted “except where those earnings arise from employment as a director,”;
 - (b) for “his weekly earnings from that employment over” there shall be substituted “his earnings from that employment received in”.
- (4) After regulation 14 there shall be inserted the following regulation—

“Normal weekly earnings of directors

14A.—(1) Subject to paragraph (2) and regulation 17 (periods to be disregarded), where a claimant’s income includes earnings from employment as a director, his normal weekly earnings from that employment shall be determined by reference to his earnings from that employment received in the year immediately preceding the week of claim.

(2) Where at the date of claim the claimant has been in employment as a director for less than a year, his normal weekly earnings from that employment shall be determined by reference to any earnings received in the period that he has been in that employment and by reference to an estimate of the earnings likely to be received in the remainder of the first year of the employment.”.

(5) In regulation 15 (normal weekly earnings of self-employed earners)(a)—

(a) in paragraph (1) for sub-paragraph (a) there shall be substituted the following sub-paragraphs—

“(a) except where sub-paragraph (aa) or (b) applies, over a period of 6 consecutive complete months up to and including the second last complete month immediately preceding the date of claim;

(aa) except where sub-paragraph (b) applies, where the claimant provides in respect of the employment a statement of his earnings and expenses for the 6 consecutive complete months up to and including the last complete month immediately preceding the date of claim, over that period of 6 months;”;

(b) for paragraph (2) there shall be substituted the following paragraph—

“(2) Subject to regulation 17, in a case where the claimant has been in employment as a self-employed earner for less than 7 complete months, his normal weekly earnings shall be determined over a period of 6 consecutive complete months commencing with the first complete month after the claimant began that employment, and that determination shall be based on either—

(a) where the claimant provides in relation to that employment a statement of his earnings and expenses for the complete months up to and including the last complete month immediately preceding the date of claim, the earnings he received in those months, or

(a) Relevant amending regulations are S.R. 1988 No. 423 and S.R. 1992 No. 403

(b) where no such statement is provided, any earnings he received in the period up to and including the second last complete month immediately preceding the date of claim, together with an estimate of the earnings likely to be received in the balance of the 6 month period.”;

(c) after paragraph (3) there shall be added the following paragraph—
 “(4) In this regulation a “complete month” begins on the first day of the month and ends on the last day of the month.”.

(6) For regulation 17 (periods to be disregarded)(a) there shall be substituted the following regulation—

“17. For the purposes of ascertaining a claimant’s normal weekly earnings there shall be disregarded—

(a) where the claimant is a self-employed earner, any week or period of weeks in his assessment period during which no activities have been carried out for the purposes of the business;

(b) where the claimant is a director, any week or period of weeks in his assessment period during which he has done no work and in respect of which he has received no earnings, and

his normal weekly earnings shall be determined by reference to his earnings in the remainder of that period (the reduced period) and in these regulations any reference to an assessment period shall in its application to such a case be construed as a reference to that reduced period.”.

(7) In regulation 18 (calculation of weekly amount of income)(b)—

(a) in paragraph (2) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) except where sub-paragraph (b) applies, by multiplying by 7 his earnings—

(i) received in the assessment period;

(ii) estimated for the assessment period, or

(iii) both received in and estimated for that period,

as the case may be, and dividing the product by the number equal to the number of days in that period;”;

(b) after paragraph (2) there shall be added the following paragraph—

“(3) For the purposes of regulation 14A (normal weekly earnings of directors), the weekly amount of earnings of a claimant shall be determined by dividing his earnings—

(a) received in the assessment period;

(b) estimated for the assessment period, or

(c) both received in and estimated for that period,

(a) Relevant amending regulations are S.R. 1992 No. 148

(b) Relevant amending regulations are S.R. 1988 Nos. 303 and 423

as the case may be, by the number equal to the number of weeks in that period.”

(8) In regulation 20(4) (calculation of net earnings of employed earners)(a) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages applicable at the date of claim in accordance with section 8(1)(a) and (b) of that Act, and”

(9) After regulation 20 there shall be inserted the following regulation—

“*Calculation of net earnings of directors*

20ZA.—(1) For the purposes of regulation 14A (normal weekly earnings of directors), the earnings of a claimant to be taken into account shall be his net earnings derived from, or likely to be derived from, his employment as a director during the assessment period relevant to his case, and those net earnings shall be determined in accordance with paragraphs (2) to (4).

(2) There shall be disregarded from a claimant’s net earnings any sum, where applicable, specified in Schedule 1 (persons not required to be available for employment).

(3) A claimant’s net earnings shall, except where paragraph (4) applies, be calculated by taking into account his gross earnings from that employment, less—

(a) any amount deducted from those earnings by way of—

(i) income tax;

(ii) primary Class 1 contributions under the Contributions and Benefits Act, 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 some or all of the claimant’s earnings are estimated under regulation 14A(2), those net earnings shall be calculated by taking into account the estimated gross earnings, less—

(a) an amount representing income tax, calculated by applying to those earnings the lower rate or, as the case may be, the lower rate and the basic rate of income tax in the year of assessment in which the claim was made, taking into account the personal relief to which the claimant would be entitled under sections 257(1), 257A(1) and 259 of the Income and Corporation Taxes Act 1988(b) (personal relief); except that if the period in respect of

(a) Relevant amending regulations are S.R. 1988 No. 131 and S.R. 1992 Nos. 148 and 403

(b) 1988 c. 1; sections 257 to 257F were substituted for section 257 by section 33 of the Finance Act 1988 (c. 39); the amounts in sections 257(1) and 257A(1) were substituted by the Income Tax (Indexation) Order 1993 (S.I. 1993/755). Section 259 was amended by section 30 of, and paragraph 5(1) of Schedule 3 to, the Finance Act 1988 and paragraph 5 of Schedule 5 to the Finance (No. 2) Act 1992 (c. 48)

which the estimate is made is less than a year, the lower rate and, if appropriate, the basic rate of tax and the amount of the personal relief allowable under this sub-paragraph shall be reduced pro-rata;

- (b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages applicable at the date of claim in accordance with section 8(1)(a) and (b) of that Act, and
- (c) one half of any sum which would be payable by the claimant by way of a contribution towards an occupational or personal pension scheme.”.

(10) In regulation 20A (calculation of bonus or commission)(a) for paragraph (b) there shall be substituted the following paragraph—

“(b) an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to that part of the earnings the main primary percentage applicable at the date of claim, and”.

(11) In regulation 22 (calculation of net profit of self-employed earners)(b)—

(a) for “one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme” in each place where those words occur there shall be substituted “one half of the amount in respect of any qualifying premium calculated in accordance with paragraph (12A)”(c);

(b) in paragraph (12) for “In this regulation” there shall be substituted—
“In this regulation—

(a) “qualifying premium” means any premium which at the date of claim is payable periodically in respect of a retirement annuity contract or a personal pension scheme;

(b) ”;

(c) after paragraph (12) there shall be inserted the following paragraph—

“(12A) The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying premium shall be determined—

(a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;

(a) Regulation 20A was inserted by regulation 9 of S.R. 1990 No. 138; relevant amending regulations are S.R. 1992 Nos. 148 and 403

(b) Relevant amending regulations are S.R. 1988 No. 423 and S.R. 1993 No. 373

(c) Paragraph (12A) is inserted by regulation 3(11)(c) of these regulations

(b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.”.

(12) In regulation 26(6) (notional income)(a) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages applicable at the date of claim in accordance with section 8(1)(a) and (b) of that Act, and”.

(13) In regulation 42 (other amounts to be disregarded)—

(a) for “other than grant income and covenant income” there shall be substituted “other than grant income, covenant income and loans treated as income in accordance with regulation 42A”(b);

(b) after “sums disregarded under regulations 38(2)” there shall be inserted “and (2A)”(c).

(14) In Schedule 2 (sums to be disregarded in the calculation of income other than earnings)(d)—

(a) for paragraph 19 there shall be substituted the following paragraph—

“19. Where the claimant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 18 or 41 refers, and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

(a) £4 of the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, and

(b) a further £8·60, where the aggregate of any such payments is inclusive of an amount for heating.”;

(b) for paragraph 41 there shall be substituted the following paragraph—

“41. Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

(a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20·00, 100 per cent. of such payments, or

(a) Relevant amending regulations are S.R. 1988 No. 131

(b) Regulation 42A was inserted by regulation 2(5) of S.R. 1990 No. 297; relevant amending regulations are S.R. 1991 No. 326

(c) Paragraph (2A) was inserted by regulation 10(b) of S.R. 1992 No. 148

(d) Relevant amending rules are S.R. 1990 No. 138, S.R. 1992 No. 18 and S.R. 1993 No. 120

- (b) where the aggregate of any such payments exceeds £20·00, £20·00 and 50 per cent. of the excess over £20·00.”;
- (c) after paragraph 51 there shall be added the following paragraph—
- “52. Where the claimant is in receipt of any benefit under Parts II, III or V of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part IV (increases for dependants) or section 106(a) (unemployability supplement) of that Act where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.”.

Amendment of the Income Support Regulations

4.—(1) The Income Support Regulations shall be amended in accordance with paragraphs (2) to (9).

(2) In regulation 19 (persons in residential care homes and nursing homes)—

(a) in paragraph (1ZD)(a) for “property” there shall be substituted “home”;

(b) after paragraph (1ZJ)(b) there shall be inserted the following paragraph—

“(1ZK) Where a person is treated in accordance with paragraph (1ZI) as having a preserved right, paragraph (1ZF) shall apply to that person as if he had acquired a preserved right under paragraph (1ZB).”.

(3) In regulation 21(1) (special cases) for “except where otherwise provided” there shall be substituted “except as provided in regulation 44(1) (modifications in respect of children and young persons)”.

(4) In regulation 42 (notional income)(c)—

(a) in paragraph (4)(a)(ii) the words from “or accommodation charge” to “nursing homes)” shall be omitted;

(b) after paragraph (4) there shall be inserted the following paragraph—

“(4A) Where the claimant lives in a residential care home or a nursing home, or is temporarily absent from such a home, any payment made by a person other than the claimant or a member of his family in respect of some or all of the cost of maintaining the claimant or a member of his family in that home shall be treated as possessed by the claimant or by that member of his family.”;

(c) in paragraph (8) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1

(a) Paragraph (1ZD) was inserted by regulation 2(5)(b) of S.R. 1993 No. 149

(b) Paragraph (1ZJ) was inserted by regulation 4(9)(c) of S.R. 1993 No. 373

(c) Relevant amending regulations are S.R. 1988 No. 318, S.R. 1989 No. 139, S.R. 1990 No. 33, S.R. 1991 No. 204, S.R. 1992 No. 201 and S.R. 1993 Nos. 120, 149, 195 and 233

contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages in accordance with section 8(1)(a) and (b) of that Act, and”.

(5) In regulation 66(1) (other amounts to be disregarded)—

(a) for “other than grant income and covenant income” there shall be substituted “other than grant income, covenant income and loans treated as income in accordance with regulation 66A”(a);

(b) after “sums disregarded under regulation 62(2)” there shall be inserted “and (2A)”(b).

(6) In regulation 71(1) (applicable amounts in urgent cases)(c) for “except where otherwise provided” in each place where those words occur there shall be substituted “except as provided in regulation 44(1) (modifications in respect of children and young persons)”.

(7) In Schedule 1 (persons not required to be available for employment)(d) for paragraph 5 (persons incapable of work) there shall be substituted the following paragraph—

“5. A person who—

(a) is entitled to sickness benefit or invalidity pension under Part II of the Contributions and Benefits Act, or severe disablement allowance under Part III of that Act, or is in receipt of statutory sick pay within the meaning of Part XI of that Act, or

(b) would be entitled to—

(i) sickness benefit but for the provisions of section 31(4) of the Contributions and Benefits Act (no entitlement to sickness benefit for the first three days of interruption of employment), or but for a failure to satisfy the contribution conditions specified for that benefit in paragraph 2 of Schedule 3 to the Contributions and Benefits Act, or

(ii) sickness benefit or invalidity benefit but for the provisions of regulation 7(1)(c) of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1984(e) (days not to be treated as days of unemployment or incapacity for work).”.

(8) In Schedule 3 (housing costs)(f) in paragraph 7 (interest on loans to acquire an interest in the dwelling occupied as the home)—

(a) in sub-paragraph (4) for the words from “the basic rate” to “1988” there shall be substituted “the applicable percentage of income tax

(a) Regulation 66A was inserted by regulation 4(7) of S.R. 1990 No. 297; relevant amending regulations are S.R. 1991 Nos. 46 and 338

(b) Paragraph (2A) was inserted by regulation 7(a) of S.R. 1992 No. 147

(c) Relevant amending regulations are S.R. 1988 Nos. 146 and 318, S.R. 1989 Nos. 139 and 249 and S.R. 1993 Nos. 149 and 373

(d) Relevant amending regulations are S.R. 1988 No. 431

(e) S.R. 1984 No. 245; relevant amending regulations are S.R. 1988 No. 355

(f) Relevant amending regulations are S.R. 1988 No. 431 and S.R. 1990 No. 346

within the meaning of section 369(1A) of the Income and Corporation Taxes Act 1988”(a);

- (b) in sub-paragraph (7) for head (b) there shall be substituted the following head—

“(b) has left that dwelling and either cannot or will not pay the interest on the loan, or has died.”;

- (c) sub-paragraph (8) shall be omitted.

(9) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)(b)—

- (a) in paragraph 15(2) “or by the Department under Article 36(3) of the 1972 Order” shall be omitted;

- (b) for paragraph 19 there shall be substituted the following paragraph—

“19. Where the claimant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 18 or 20 refers, and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) £4 of the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, and

- (b) a further £8·60, where the aggregate of any such payments is inclusive of an amount for heating.”;

- (c) for paragraph 20 there shall be substituted the following paragraph—

“20. Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20·00, 100 per cent. of such payments, or

- (b) where the aggregate of any such payments exceeds £20·00, £20·00 and 50 per cent. of the excess over £20·00.”;

- (d) after paragraph 52 there shall be added the following paragraph—

“53. Where the claimant is in receipt of any benefit under Parts II, III or V of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part IV (increases for dependants) or section 106(a) (unemployability supplement) of that Act where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.”.

(a) 1988 c. 1; subsection (1A) of section 369 was inserted by paragraph 13 of resolution no. 20 passed by the House of Commons on 7 December 1993, that resolution having statutory effect under section 1 of the Provisional Collection of Taxes Act 1968 (c. 2) as amended by section 205 of the Finance Act 1993 (c. 34), until the Finance Bill receives Royal Assent

(b) Relevant amending rules are S.R. 1988 No. 318, S.R. 1990 No. 131, S.R. 1992 No. 18 and S.R. 1993 Nos. 120, 149, 165 and 373

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 7th March 1994.

(L.S.)

W. G. Purdy

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Disability Working Allowance (General) Regulations (Northern Ireland) 1992, the Family Credit (General) Regulations (Northern Ireland) 1987 and the Income Support (General) Regulations (Northern Ireland) 1987. In particular they—

- (a) further define the amount to be disregarded in the calculation of a student's income (regulations 2(6), 3(13) and 4(5));
- (b) in the calculation of income other than earnings, provide a disregard in certain circumstances where an increase of a specified benefit is payable in respect of a dependant, and further define the amount to be disregarded in respect of payments made to a claimant where other persons occupy the claimant's home (regulations 2(7), 3(14) and 4(9)(b), (c) and (d));
- (c) in the calculation of earnings, further specify the amount to be deducted for national insurance contributions in certain circumstances (regulations 2(2), 2(3), 2(5), 3(8), 3(10), 3(12) and 4(4)(c)).

With respect to disability working allowance and family credit they further amend the provisions specifying the amount to be deducted in respect of any premium paid towards a personal pension scheme in the calculation of earnings of self-employed earners (regulations 2(4) and 3(11)).

With respect to family credit they—

- (a) provide specific rules for the calculation of earnings of company directors and define "director" (regulation 3(2), (3)(a), (4), (6), (7) and (9));
- (b) amend the provisions specifying the earnings to be taken into account in the calculation of earnings of employed earners (regulation 3(3)(b));
- (c) amend the provisions specifying the period over which a self-employed earner's earnings should be calculated (regulation 3(5)).

With respect to income support they—

- (a) further amend the provisions specifying the circumstances in which people in residential care homes and nursing homes have preserved rights (regulation 4(2));
- (b) make minor amendments with respect to the calculation of the income and capital of a child (regulation 4(3) and (6));
- (c) specify the circumstances in which people in residential care homes and nursing homes will be treated as having notional income (regulation 4(4)(a) and (b));
- (d) amend the provision specifying that a person who is incapable of work does not have to be available for work (regulation 4(7));
- (e) in the calculation of housing costs, alter the rate of deductions in respect of mortgage interest tax relief, amend the provisions specifying the circumstances in which mortgage interest can be met where the claimant's former partner has left the home, and remove the rule which allowed the amount of housing costs in the applicable amount to remain constant notwithstanding a reduction in interest rates (regulation 4(8));
- (f) in the calculation of income other than earnings, make a minor amendment to the disregard of charitable or voluntary payments (regulation 4(9)(a)).

These regulations make in relation to Northern Ireland only provision corresponding 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 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.