

## 1995 No. 301

## SOCIAL SECURITY

**The Social Security (Income Support and Claims and Payments) (Amendment) Regulations (Northern Ireland) 1995***Made* . . . . . 31st July 1995*Coming into operation in accordance with regulation 1(1) and (2)*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1)(a), 131(1), 132(4)(b), 133(2)(h) to (j) and 171(5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and sections 5(1)(g) and 13A(2) of the Social Security Administration (Northern Ireland) Act 1992(b) 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 (Income Support and Claims and Payments) (Amendment) Regulations (Northern Ireland) 1995 and shall come into operation on 2nd October 1995.

(2) These Regulations 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 2nd October 1995 which applies in his case and for this purpose and in paragraph 2 of Schedule 2 the expressions “claimant” and “benefit week” have the same meanings as in regulation 2(1) of the Income Support Regulations (interpretation).

(3) In these Regulations—

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

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(d).

(4) The Interpretation Act (Northern Ireland) 1954(e) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

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(a) 1992 c. 7

(b) 1992 c. 8; section 13A was inserted by paragraph 1 of the Schedule to the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992 (S.I. 1992/1309 (N.I. 9))

(c) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 Nos. 146, 318 and 431, S.R. 1989 Nos. 139 and 395, S.R. 1990 Nos. 33, 131, 297, 346 and 387, S.R. 1991 Nos. 46, 204 and 474, S.R. 1992 Nos. 85, 147, 201 and 403, S.R. 1993 Nos. 28, 120, 149, 195, 233, 311, 373 and 479, S.R. 1994 Nos. 77 and 138 and S.R. 1995 Nos. 71, 86, 101 and 162

(d) S.R. 1987 No. 465; relevant amending regulations are S.R. 1988 No. 67, S.R. 1991 No. 488, S.R. 1992 No. 271 and S.R. 1993 No. 375

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

*Substitution of Schedule 3 to the Income Support Regulations*

2. For Schedule 3 to the Income Support Regulations (housing costs) there shall be substituted the Schedule set out in Schedule 1 to these Regulations.

*Amendment of Schedules 8A and 8B to the Claims and Payments Regulations*

3. Schedules 8A and 8B to the Claims and Payments Regulations (deductions from benefits and direct payment to third parties and deductions of mortgage interest from benefit and payment to qualified lenders) shall be amended in accordance with Schedule 2 to these Regulations.

*Amendment of Schedule 9 to the Income Support Regulations*

4. Schedule 9 to the Income Support Regulations (sums to be disregarded in the calculation of income other than earnings) shall be amended in accordance with Schedule 3 to these Regulations.

*Revocations and Savings*

5.—(1) The Regulations specified in column (1) of Schedule 4 to these Regulations are revoked to the extent specified in column (3) of that Schedule.

(2) The revocation by paragraph (1) and Schedule 4 to these Regulations of any provision previously amended or substituted but subject to a saving for existing beneficiaries does not affect the continued operation of those savings.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 31st July 1995.

(L.S.)

W. G. Purdy

Assistant Secretary

**Schedule to be substituted for Schedule 3 to the Income Support Regulations**

## "SCHEDULE 3

Regulations 17(1)(e)  
and 18(1)(f)**Housing Costs***Housing Costs*

1.—(1) Subject to paragraphs 2 to 19, the housing costs applicable to a claimant are those costs—

- (a) which he or, where he is a member of a family, he or any member of that family is, in accordance with paragraph 2, liable to meet in respect of the dwelling occupied as the home which he or any other member of his family is treated as occupying; and
- (b) which qualify under paragraphs 15 to 17.

(2) In this Schedule—

“housing costs” means those costs to which sub-paragraph (1) refers;

“existing housing costs” means housing costs arising under an agreement entered into before 2nd October 1995, or under an agreement entered into after 1st October 1995 (“the new agreement”)—

- (a) which replaces an existing agreement between the same parties in respect of the same property;
- (b) where the existing agreement was entered into before 2nd October 1995; and
- (c) which is for a loan of the same amount as or less than the amount of the loan under the agreement it replaces, and for this purpose any amount payable to a third party to arrange the new agreement and included in the loan shall be disregarded;

“new housing costs” means housing costs arising under an agreement entered into after 1st October 1995 other than an agreement referred to in the definition of “existing housing costs”;

“standard rate” means the rate for the time being specified in paragraph 12.

(3) For the purposes of this Schedule a disabled person is a person—

- (a) in respect of whom a disability premium, a disabled child premium, a pensioner premium for persons aged 75 or over or a higher pensioner premium is included in his applicable amount or the applicable amount of a person living with him; or
- (b) who is a non-dependant but who, had he in fact been entitled to income support, would have had included in his applicable amount a disability premium, a disabled child premium, a pensioner premium for persons aged 75 or over or a higher pensioner premium.

(4) For the purposes of sub-paragraph (3), a person shall not cease to be a disabled person on account of his being disqualified for receiving benefit or treated as capable of work by virtue of the operation of section 167E of the Contributions and Benefits Act (incapacity for work, disqualification etc.)(a).

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(a) Section 167E was inserted by Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

*Circumstances in which a person is liable to meet housing costs*

2.—(1) A person is liable to meet housing costs where—

- (a) the liability falls upon him or his partner but not where the liability is to a member of the same household as the person on whom the liability falls;
- (b) because the person liable to meet the housing costs is not meeting them, the claimant has to meet those costs in order to continue to live in the dwelling occupied as the home and it is reasonable in all the circumstances to treat the claimant as liable to meet those costs;
- (c) he in practice shares the housing costs with other members of the household none of whom are close relatives either of the claimant or his partner, and—
  - (i) one or more of those members is liable to meet those costs, and
  - (ii) 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 wholly the responsibility of those members of the family not so affected.

*Circumstances in which a person is to be treated as occupying a dwelling as his home*

3.—(1) Subject to sub-paragraphs (2) to (13), 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 other 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 those 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) a person has moved into a dwelling and was liable to make payments in respect of that dwelling before moving in;
  - (b) he 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 VIII of the Contributions and Benefits Act 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, 9A, 10, 11, 13 or 14 of Schedule 2(a), or
    - (iii) the person became liable to make payments in respect of the dwelling while he was a patient or was 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) This sub-paragraph applies to a person who enters residential accommodation—
- (a) for the purpose of ascertaining whether the accommodation suits his needs; and
  - (b) with the intention of returning to the dwelling which he normally occupies as his home should, in the event, the residential accommodation prove not to suit his needs,
- and while in the accommodation, the part of the dwelling which he normally occupies as his home is not let or, as the case may be, sub-let to another person.

(9) A person to whom sub-paragraph (8) applies shall be treated as occupying the dwelling he normally occupies as his home during any period (commencing with (and including) the day he enters the accommodation) not exceeding 13 weeks in which the person is resident in the accommodation, but only in so far as the total absence from the dwelling does not exceed 52 weeks.

(10) A person, other than a person to whom sub-paragraph (11) applies, shall be treated as occupying a dwelling as his home throughout any period of absence not exceeding 13 weeks, if, and 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 to another person; and
- (c) the period of absence is unlikely to exceed 13 weeks.

(11) This sub-paragraph applies to a person whose absence from the dwelling he normally occupies as his home is temporary and—

- (a) he intends to return to occupy the dwelling as his home;
- (b) while the part of the dwelling which is normally occupied by him has not been let or, as the case may be, sub-let; and
- (c) he is—

- (i) detained in custody on remand pending trial or, as a condition of bail, required to reside in a hostel or, as the case may be, detained pending sentence upon conviction,
  - (ii) resident in a hospital or similar institution as a patient,
  - (iii) undergoing or, as the case may be, his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation,
  - (iv) following, in the United Kingdom or elsewhere, a training course,
  - (v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere,
  - (vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment,
  - (vii) a person who is, whether in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation,
  - (viii) a student to whom sub-paragraph (3) or (6)(b) does not apply,
  - (ix) a person other than a person to whom sub-paragraph (8) applies, who is receiving care provided in residential accommodation, or
  - (x) a person to whom sub-paragraph (6)(a) does not apply and who has left the dwelling he occupies as his home through fear of violence in that dwelling from another who was formerly a member of his family; and
- (d) the period of his absence is unlikely to exceed a period of 52 weeks or, in exceptional circumstances is unlikely substantially to exceed that period.

(12) A person to whom sub-paragraph (11) applies is to be treated as occupying the dwelling he normally occupies as his home during any period of

absence not exceeding 52 weeks beginning with and including the first day of that absence.

(13) In this paragraph—

- (a) “medically approved” means certified by a medical practitioner;
- (b) “patient” means a person who is undergoing medical or other treatment as an in-patient in a hospital or similar institution;
- (c) “residential accommodation” means accommodation—
  - (i) provided under Article 15 or 36 of the 1972 Order<sup>(a)</sup>,
  - (ii) which is a residential care home, or
  - (iii) which is a nursing home;
- (d) “training course” means such a course of training or instruction provided wholly or partly by, or on behalf of, or in pursuance of arrangements made with, or approved by, or on behalf of, a government department.

#### *Housing costs not met*

4.—(1) 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 which is a residential care home or a nursing home except where he is in such accommodation during a temporary absence from the dwelling he occupies as his home and in so far as they relate to temporary absences, the provisions of paragraph 3(8) to (12) apply to him during that absence.

(2) Subject to sub-paragraphs (3) to (12), loans which, apart from this paragraph, qualify under paragraph 15 shall not so qualify where the loan was incurred during the relevant period and was incurred—

- (a) after 1st October 1995;
- (b) after 2nd May 1994 and the housing costs applicable to that loan were not met by virtue of the former paragraph 5A of this Schedule<sup>(b)</sup> in any one or more of the 26 weeks preceding 2nd October 1995; or
- (c) subject to sub-paragraph (3), in the 26 weeks preceding 2nd October 1995 by a person—
  - (i) who was not at that time entitled to income support, and
  - (ii) who becomes, or whose partner becomes entitled to income support after 1st October 1995 and that entitlement is within 26 weeks of an earlier entitlement to income support for the claimant or his partner.

(3) Sub-paragraph (2)(c) shall not apply in respect of a loan where the claimant has interest payments on that loan met without restrictions under an award of income support in respect of a period commencing before 2nd October 1995.

(4) The “relevant period” for the purposes of this paragraph is any period during which the person to whom the loan was made—

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- (a) Article 15 was extended by sections 1 and 2 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 53) and amended by Schedule 5 to the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1)) and paragraph 2(2) of Schedule 1 to the Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (N.I. 20)). Article 36 was substituted by Article 25 of the Health and Personal Social Services (Northern Ireland) Order 1991 and amended by paragraph 2(3) to (5) of Schedule 1 to the Registered Homes (Northern Ireland) Order 1992
  - (b) Paragraph 5A was inserted by S.R. 1994 No. 138 and amended by regulation 2(10) of S.R. 1995 No. 86

- (a) is entitled to income support; or
- (b) is living as a member of a family one of whom is entitled to income support,

together with any linked period, that is to say a period falling between 2 such periods of entitlement to income support separated by not more than 26 weeks.

(5) For the purposes of sub-paragraph (4)—

- (a) any week in the period of 26 weeks ending on 1st October 1995 on which there arose an entitlement to income support such as is mentioned in that sub-paragraph shall be taken into account in determining when the relevant period commences; and
  - (b) 2 or more periods of entitlement and any intervening linked periods shall together form a single relevant period.
- (6) Where the loan to which sub-paragraph (2) refers has been applied—
- (a) for paying off an earlier loan, and that earlier loan qualified under paragraph 15; or
  - (b) to finance the purchase of a property where a previous loan secured on another property was paid off (in whole or in part) with monies received from the sale of that property,

then the amount of the loan to which sub-paragraph (2) applies is the amount (if any) by which the new loan exceeds the earlier loan.

(7) Notwithstanding sub-paragraphs (1) to (6), housing costs shall be met in any case where a claimant satisfies any of the conditions specified in sub-paragraphs (8) to (11), but—

- (a) those costs shall be subject to any additional limitations imposed by the sub-paragraph; and
  - (b) where the claimant satisfies the conditions in more than one of these sub-paragraphs, only one sub-paragraph shall apply in his case and the one that applies shall be the one most favourable to him.
- (8) The conditions specified in this sub-paragraph are that—
- (a) during the relevant period the claimant or a member of his family acquires an interest (“the relevant interest”) in a dwelling which he then occupies or continues to occupy, as his home; and
  - (b) in the week preceding the week in which the relevant interest was acquired, housing benefit was payable to the claimant or a member of his family;

so however that the amount to be met by way of new housing costs shall initially not exceed the aggregate of—

- (i) the housing benefit payable in the week mentioned at sub-paragraph (8)(b), and
- (ii) any amount included in the applicable amount of the claimant or a member of his family in accordance with regulation 17(1)(e) or 18(1)(f) in that week,

and shall be increased subsequently only to the extent that it is necessary to take account of any increase, arising after the date of the acquisition, in the standard rate or in any housing costs which qualify under paragraph 17 (other housing costs).

(9) The condition specified in this sub-paragraph is that the loan was taken out, or an existing loan increased, to acquire alternative accommodation more



suited to the special needs of a disabled person than the accommodation which was occupied before the acquisition by the claimant.

- (10) The conditions specified in this sub-paragraph are that—
- (a) the loan commitment increased in consequence of the disposal of the dwelling occupied as the home and the acquisition of an alternative such dwelling; and
  - (b) the change of dwelling was made solely by reason of the need to provide separate sleeping accommodation for children of different sexes aged 10 or over who belong to the same family as the claimant.
- (11) The conditions specified in this sub-paragraph are that—
- (a) during the relevant period the claimant or a member of his family acquires an interest (“the relevant interest”) in a dwelling which he then occupies as his home; and
  - (b) in the week preceding the week in which the relevant interest was acquired, the applicable amount of the claimant or a member of his family included an amount determined by reference to paragraph 17 and did not include any amount specified in paragraph 15 or 16,

so however that the amount to be met in accordance with this Schedule shall initially not exceed the amount so determined, and shall be increased subsequently only to the extent that it is necessary to take account of any increase, arising after the date of acquisition, in the standard rate or in any housing costs which qualify under paragraph 17.

(12) Paragraphs 5 to 19 shall have effect subject to the provisions of this paragraph.

#### *Apportionment of housing costs*

5.—(1) Where for the purposes of Article 4 of, and Schedule 5 to, the Rates (Northern Ireland) Order 1977(a), 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.

(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.

#### *Existing housing costs*

6.—(1) Subject to the provisions of this Schedule, the existing housing costs to be met in any particular case are—

- (a) where the claimant has been in receipt of income support for a continuous period of 26 weeks or more, the aggregate of—
  - (i) an amount determined in the manner set out in paragraph 10 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 15 or 16, and

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

- (ii) an amount equal to any payments which qualify under paragraph 17(1)(a) to (c);
  - (b) where the claimant has been in receipt of income support for a continuous period of not less than 8 weeks but less than 26 weeks, an amount which is half the amount which would fall to be met by applying the provisions of sub-paragraph (a);
  - (c) in any other case, nil.
- (2) Where immediately before 2nd October 1995 a claimant's applicable amount included a sum by way of housing costs in accordance with regulation 17(1)(e) or 18(1)(f), but the claimant had not on that date been entitled to income support for a continuous period of 26 weeks or more, the amount of the housing costs to be met in his case shall, for the balance of 26 weeks falling after 1st October 1995, be determined in accordance with sub-paragraph (3).
- (3) Subject to sub-paragraph (4), where the claimant had on 1st October 1995—
- (a) been entitled to income support for less than 16 consecutive weeks (including the benefit week in which 1st October 1995 falls), any housing costs to be met in his case shall remain at the amount they were before 2nd October 1995 until the end of the 16th consecutive week of that entitlement and shall thereafter be determined as if he had been entitled for a continuous period of 26 weeks;
  - (b) been entitled for 16 consecutive weeks or more but less than 26 consecutive weeks (including the benefit week in which 1st October 1995 falls), any housing costs to be met in his case shall be determined as if he had been entitled for 26 weeks.
- (4) Sub-paragraph (3) shall apply in a particular case only for so long as the agreement in respect of which a sum by way of housing costs falls to be met immediately before 2nd October 1995 in accordance with regulation 17(1)(e) or 18(1)(f) remains in operation.

#### *Transitional Protection*

7.—(1) Where the amount applicable to a claimant by way of housing costs under regulation 17(1)(e) or 18(1)(f) (as the case may be) in the benefit week which includes 1st October 1995 ("the first benefit week") is greater than the amount which, in accordance with paragraphs 6 and 10, is applicable in his case in the next succeeding benefit week ("the second benefit week"), the claimant shall be entitled to have his existing housing costs increased by an amount (referred to in this paragraph as "add back") determined in accordance with sub-paragraphs (2) to (9).

(2) Where the amount to be met by way of housing costs in the first benefit week is greater than the amount to be met in the second benefit week, then the amount of the add back shall be a sum representing the difference between those amounts.

(3) Where the amount of existing housing costs, disregarding the add back, which is applicable to the claimant increases after the second benefit week, the amount of the add back shall be decreased by an amount equal to that increase, and the amount of the add back shall thereafter be the decreased amount.

(4) Any increase in the amount of the existing housing costs, disregarding the add back, shall reduce the amount of the add back in the manner specified in sub-paragraph (3), and where the amount of the add back is reduced to nil, the

amount of the existing housing costs shall thereafter not include any amount by way of add back.

(5) Where a person or his partner—

(a) was entitled to income support;

(b) had an applicable amount which included an amount by way of add back in accordance with this paragraph; and

(c) ceased to be entitled to income support for a continuous period in excess of 12 weeks,

then, on the person or his partner again becoming entitled to income support, the applicable amount of the claimant shall be determined without reference to the provisions relating to add back in sub-paragraphs (1) to (4).

(6) Where a person whose applicable amount included an amount by way of add back under this paragraph loses the right to have an amount by way of housing costs included in his applicable amount, then where that person's applicable amount again includes an amount by way of housing costs, that amount shall be determined without reference to the provisions relating to add back in sub-paragraphs (1) to (4).

(7) Where the partner of a person to whom sub-paragraph (6) applies becomes entitled to income support and—

(a) his applicable amount includes an amount by way of existing housing costs; and

(b) those housing costs are in respect of payments which were formerly met in the applicable amount of the person to whom sub-paragraph (6) applies,

then the provisions of this paragraph shall apply to the partner as they would if he had been responsible for the housing costs immediately before 2nd October 1995.

(8) Where in the first benefit week, a claimant's applicable amount included an amount by way of housing costs which was calculated by reference to paragraph 7(1)(b)(ii) of Schedule 3 as then in operation (50 per cent. of eligible interest met) then for the purposes of this paragraph, the amount of the add back shall be determined by reference to the amount which would have been applicable on that day if 100 per cent. of the claimant's eligible interest had been met, but only from the benefit week following the final benefit week in which paragraph 7(1)(b)(ii) of Schedule 3 would, had it remained in operation, have applied in the claimant's case.

(9) Where the existing housing costs of the claimant are determined by reference to 2 or more loans which qualify under this Schedule, then the provisions of this paragraph shall be applied separately to each of those loans and the amount of the add back (if any) shall be determined in respect of each loan.

#### *New housing costs*

8.—(1) Subject to the provisions of this Schedule, the new housing costs to be met in any particular case are—

(a) where the claimant has been in receipt of income support for a continuous period of 39 weeks or more, an amount—

(i) determined in the manner set out in paragraph 10 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 15 or 16, and

(ii) equal to any payments which qualify under paragraph 17(1)(a) to (c);

(b) in any other case, nil.

(2) This sub-paragraph applies to a claimant who at the time the claim is made—

(a) is a person to whom paragraph 4 of Schedule 1 (persons with caring responsibilities not required to be available for employment) applies;

(b) is detained in custody pending trial or sentence upon conviction; or

(c) has been refused payments under a policy of insurance on the ground that—

(i) the claim under the policy is the outcome of a pre-existing medical condition which, under the terms of the policy, does not give rise to any payment by the insurer, or

(ii) he was infected by the Human Immunodeficiency Virus,

and the policy was taken out to insure against the risk of being unable to maintain repayments on a loan which is secured by a mortgage or a charge over land.

(3) This sub-paragraph applies, subject to sub-paragraph (5), where a person claims income support because of—

(a) the death of a partner; or

(b) being abandoned by his partner,

and where the person's family includes a child.

(4) In the case of a claimant to whom sub-paragraph (2) or (3) applies, any new housing costs shall be met as though they were existing housing costs and paragraph 6 applied to them.

(5) Sub-paragraph (3) shall cease to apply to a person who subsequently becomes one of a couple.

#### *General exclusions from paragraphs 6 and 8*

9.—(1) Paragraphs 6 and 8 shall not apply where—

(a) the claimant or his partner is aged 60 or over;

(b) the housing costs are payments where the dwelling occupied as the home is a tent, in respect of the tent and the site on which it stands.

(2) In a case falling within sub-paragraph (1), the housing costs to be met are—

(a) where head (a) applies, an amount—

(i) determined in the manner set out in paragraph 10 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 15 or 16, and

(ii) equal to the payments which qualify under paragraph 17;

(b) where head (b) applies, an amount equal to the payments which qualify under paragraph 17(1)(d).

#### *The calculation for loans*

10.—(1) The weekly amount of existing housing costs or, as the case may be, new housing costs to be met under this Schedule in respect of a loan which qualifies under paragraph 15 or 16 shall be calculated by applying the formula—

$$\frac{(A \times B) \times C}{52}$$

52

where —

A = the amount of the loan which qualifies under paragraph 15 or 16;

B = the standard rate for the time being specified in respect of that loan under paragraph 12;

C = the difference between 100 per cent. and the applicable percentage of income tax within the meaning of section 369(1A) of the Income and Corporation Taxes Act 1988(a) (mortgage interest payable under deduction of tax) for the year of assessment in which the payment of interest becomes due.

(2) Where section 369 of the Income and Corporation Taxes Act 1988 does not apply to the interest on a loan or a part of a loan, the formula applied in sub-paragraph (1) shall have effect as if C had a value of 1.

*General provisions applying to new and existing housing costs*

11.—(1) Where on or after 2nd October 1995 a person enters into a new agreement in respect of a dwelling and in entering into that agreement a previous agreement in respect of that or another dwelling ends, the housing costs applicable shall be new housing costs calculated in accordance with paragraph 8.

(2) Where on or after 2nd October 1995 a person enters into a new agreement in respect of a dwelling and an agreement entered into before 2nd October 1995 (“the earlier agreement”) continues in operation independently of the new agreement, then—

(a) the housing costs applicable to the new agreement shall be calculated by reference to the provisions of paragraph 8 (new housing costs);

(b) the housing costs applicable to the earlier agreement shall be calculated by reference to the provisions of paragraph 6 (existing housing costs),

and the resulting amounts shall be aggregated.

(3) Sub-paragraphs (1) and (2) do not apply in the case of a claimant to whom paragraph 9 applies.

(4) Where for the time being a loan exceeds, or in a case where more than one loan is to be taken into account, the aggregate of those loans exceeds the appropriate amount specified in sub-paragraph (5), then the amount of the loan or, as the case may be, the aggregate amount of those loans shall, for the purposes of this Schedule, be the appropriate amount.

(5) Subject to sub-paragraphs (6) to (9), the appropriate amount is £100,000.

(6) Where a person is treated under paragraph 3(6) (payments in respect of 2 dwellings) as occupying 2 dwellings as his home, then the restrictions imposed by sub-paragraph (4) shall be applied separately to the loans for each dwelling.

(7) In a case to which paragraph 5 (apportionment of housing costs) applies, the appropriate amount for the purposes of sub-paragraph (4) shall be the lower of either—

(a) a sum determined by applying the formula—

$$P \times Q$$

where—

P = the relevant fraction for the purposes of paragraph 5, and

Q = the amount or, as the case may be, the aggregate amount for the time being of any loan or loans which qualify under this Schedule; or

(b) the sum for the time being specified in sub-paragraph (5).

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(a) 1988 c. 1; section 369(1A) was inserted by section 81(3) of the Finance Act 1994 (c. 9)

(8) In a case to which paragraph 15(3) or 16(3) (loans which qualify in part only) applies, the appropriate amount for the purposes of sub-paragraph (4) shall be the lower of either—

- (a) a sum representing for the time being the part of the loan applied for the purposes specified in paragraph 15(1) or, as the case may be, 16(1); or
- (b) the sum for the time being specified in sub-paragraph (5).

(9) In the case of any loan to which paragraph 16(2)(k) (loan taken out and used for the purpose of adapting a dwelling for the special needs of a disabled person) applies the whole of the loan, to the extent that it remains unpaid, shall be disregarded in determining whether the amount for the time being specified in sub-paragraph (5) is exceeded.

#### *The standard rate*

12.—(1) The standard rate is the rate of interest applicable to a loan which qualifies under this Schedule and—

- (a) except where sub-paragraph (2) applies, is 8.35 per cent. per annum; or
- (b) where sub-paragraph (2) applies, shall equal the actual rate of interest charged on the loan on the day the housing costs first fall to be met.

(2) This sub-paragraph applies where the actual rate of interest charged on the loan which qualifies under this Schedule is less than 5 per cent. per annum on the day the housing costs first fall to be met and ceases to apply when the actual rate of interest on that loan is 5 per cent. per annum or higher.

(3) Where in a case to which sub-paragraph (2) applies, the actual rate of interest on the loan rises to 5 per cent. per annum or higher, the standard rate applicable on that loan shall be determined in accordance with sub-paragraph (1)(a).

(4) Any change in the amount of housing costs applicable to the claimant in consequence of sub-paragraph (3) shall take effect in the benefit week following the day on which the change occurred.

#### *Excessive Housing Costs*

13.—(1) Housing costs which, apart from this paragraph, fall to be met under this Schedule shall be met only to the extent specified in sub-paragraph (3) where—

- (a) the dwelling occupied as the home, excluding any part which is let, 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 which are met under paragraphs 15 to 17 are higher than the outgoings of suitable alternative accommodation in the area.

(2) For the purposes of sub-paragraph (1), no regard shall be had to the capital value of the dwelling occupied as the home.

(3) Subject to sub-paragraphs (4) to (9), the amount of the loan which falls to be met shall be restricted and the excess over the amounts which the claimant would need to obtain suitable alternative accommodation shall not be allowed.

(4) Where, having regard to the relevant factors, it is not reasonable to expect the claimant and his family to seek alternative cheaper accommodation, no restriction shall be made under sub-paragraph (3).

(5) In sub-paragraph (4), “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).

(6) Where sub-paragraph (4) 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 26 weeks of any period of entitlement to income support nor during the next 26 weeks if and so long as the claimant uses his best endeavours to obtain cheaper accommodation or, as the case may be, no restriction shall be made under this paragraph on review during the 26 weeks from the date of the review nor during the next 26 weeks if and so long as the claimant uses his best endeavours.

(7) For the purposes of calculating any period of 26 weeks referred to in sub-paragraph (6), and for those purposes only, a person shall be treated as entitled to income support for any period of 12 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.

(8) Any period in respect of which—

- (a) income support was paid to a person; and
- (b) it was subsequently determined on appeal or review that he was not entitled to income support for that period,

shall be treated for the purposes of sub-paragraph (7) as a period in respect of which he was not in receipt of income support.

(9) Paragraph 14(1)(c) to (f) shall apply to sub-paragraph (7) as it applies to paragraphs 6 and 8 but with the modification that the words “Subject to sub-paragraph (2)” were omitted and references to “the claimant” were references to the person mentioned in sub-paragraph (7).

#### *Linking rule*

14.—(1) Subject to sub-paragraph (2), for the purposes of this Schedule—

(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 entitled to income support, and
- (ii) any period of 12 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 or was treated as being 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—

- (i) the claimant was a member of a couple or a polygamous marriage,
- (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 12 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 this Schedule, as having been;

(d) where the claimant's partner's applicable amount was determined in accordance with paragraph 1(1) (single claimant) or (2) (lone parent) of Schedule 2 (applicable amounts) in respect of a past period, provided that the claim was made within 12 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 this Schedule, 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 begun to receive 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 this Schedule, as having been;

(f) where—

- (i) the claimant was a member of a family of a person (not being a former partner) entitled to income support and at least one other member of that family was a child or young person,
- (ii) the claimant becomes a member of another family which includes that child or young person, and
- (iii) the claimant made his claim for income support within 12 weeks of the date on which the person entitled to income support mentioned in head (f)(i) ceased to be so entitled,

the claimant shall be treated as being in receipt of income support for the same period as that person had been or had been treated, for the purposes of this Schedule, as having been.

(2) Where a claimant, with the care of a child, has ceased to be in receipt of income support in consequence of the payment of child support maintenance under the Child Support Order and immediately before ceasing to be so in receipt an amount determined in accordance with paragraph 6(1)(a)(i) or 8(1)(a)(i) was applicable to him, then—

(a) if the child support maintenance assessment concerned is terminated or replaced on review by a lower assessment in consequence of the coming into operation on or after 18th April 1995 of regulations made under the Child Support Order; or



- (b) where the child support maintenance assessment concerned is an interim maintenance assessment and, in circumstances other than those referred to in head (a), it is terminated or replaced after termination by another interim maintenance assessment or by a maintenance assessment made in accordance with Part I of Schedule 1 to the Child Support Order, in either case of a lower amount than the assessment concerned,

sub-paragraph (1)(a)(ii) shall apply to him as if for “any period of 12 weeks or less” there were substituted “any period of 26 weeks or less”.

(3) For the purposes of this Schedule, where a claimant has ceased to be entitled to income support because he or his partner is participating in arrangements for training provided under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945(a) or arranged under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(b) he shall be treated as if he had been in receipt of income support for the period during which he or his partner was participating in such arrangements.

(4) For the purposes of this Schedule, sub-paragraph (5) applies where a person is not entitled to income support by reason only that he has—

- (a) capital exceeding £8,000;
- (b) income exceeding the applicable amount which applies in his case; or
- (c) both capital exceeding £8,000 and income exceeding the applicable amount which applies in his case.

(5) A person to whom sub-paragraph (4) applies shall be treated as entitled to income support throughout any period of not less than 39 weeks which comprises only days—

- (a) on which he is entitled to unemployment benefit, statutory sick pay or incapacity benefit;
  - (b) on which he is, although not entitled to any of the benefits mentioned in head (a), entitled to be credited with earnings equal to the lower earnings limit for the time being in operation in accordance with regulation 9 of the Social Security (Credits) Regulations (Northern Ireland) 1975(c); or
  - (c) in respect of which the claimant is treated as being in receipt of income support.
- (6) In a case where—
- (a) sub-paragraph (5) applies solely by virtue of sub-paragraph (4)(b); and
  - (b) the claimant’s income includes payments under a policy taken out to insure against the risk that the policy holder is unable to meet any loan or payment which qualifies under paragraphs 15 to 17,

sub-paragraph (5) shall have effect as if for “throughout any period of not less than 39 weeks” there shall be substituted “throughout any period that payments are made in accordance with the terms of the policy”.

(7) Where before the expiration of the 39 weeks mentioned in sub-paragraph (5), sub-paragraph (4) ceases to apply to a person and he becomes entitled to

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(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 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

(c) S.R. 1975 No. 113; regulation 9 was amended by S.R. 1976 No. 321, S.R. 1977 No. 132, S.R. 1978 No. 77, S.R. 1982 No. 42, S.R. 1987 No. 153, S.R. 1988 No. 326, S.R. 1989 No. 368, S.R. 1992 No. 135, S.R. 1994 Nos. 65 and 265 and S.R. 1995 No. 150

income support, sub-paragraph (5) shall apply in his case as if the words "of not less than 39 weeks" were omitted.

(8) This sub-paragraph applies—

(a) to a person who claims income support, or in respect of whom income support is claimed, and who—

- (i) received payments under a policy of insurance taken out to insure against loss of employment, and those payments are exhausted, and
- (ii) had a previous award of income support where the applicable amount included an amount by way of housing costs; and

(b) where the period in respect of which the previous award of income support was payable ended not more than 26 weeks before the date the claim was made.

(9) Where sub-paragraph (8) applies, in determining—

(a) for the purposes of paragraph 6(1) whether a person has been in receipt of income support for a continuous period of 26 weeks or more; or

(b) for the purposes of paragraph 8(1) whether a claimant has been in receipt of income support for a continuous period of 39 weeks or more,

any week falling between the date of the termination of the previous award and the date of the new claim shall be ignored.

#### *Loans on residential property*

15.—(1) A loan qualifies under this paragraph where the loan was taken out to defray monies applied for any of the following purposes—

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

(2) For the purposes of this paragraph, references to a loan include also a reference to money borrowed under a hire purchase agreement for any purpose specified in sub-paragraph (1).

(3) Where a loan is applied only in part for the purposes specified in sub-paragraph (1), only that portion of the loan which is applied for that purpose shall qualify under this paragraph.

#### *Loans for repairs and improvements to the dwelling occupied as the home*

16.—(1) A loan qualifies under this paragraph where the loan was taken out, with or without security, for the purpose of—

- (a) carrying out repairs and improvements to the dwelling occupied as the home;
- (b) paying any service charge imposed to meet the cost of repairs and improvements to the dwelling occupied as the home;
- (c) paying off another loan to the extent that the other loan would have qualified under head (a) or (b) had the loan not been paid off,

and the loan was used for that purpose, or is used for that purpose within 6 months of the date of receipt or such further period as may be reasonable in the particular circumstances of the case.

(2) In sub-paragraph (1) "repairs and improvements" means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of the building containing that dwelling—

- (a) provision of a fixed bath, shower, wash basin, sink or lavatory, and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
- (b) repairs to existing heating system;
- (c) damp-proof measures;
- (d) provision of ventilation and natural lighting;
- (e) provision of drainage facilities;
- (f) provision of facilities for preparing and cooking food;
- (g) provision of insulation of the dwelling occupied as the home;
- (h) provision of electric lighting and sockets;
- (i) provision of storage facilities for fuel or refuse;
- (j) repairs of unsafe structural defects;
- (k) adapting a dwelling for the special needs of a disabled person; or
- (l) provision of separate sleeping accommodation for children of different sexes aged 10 or over who are part of the same family as the claimant.

(3) Where a loan is applied only in part for the purposes specified in sub-paragraph (1), only that portion of the loan which is applied for that purpose shall qualify under this paragraph.

#### *Other housing costs*

17.—(1) Subject to the deduction specified in sub-paragraph (2), there shall be met under this paragraph the amounts, calculated on a weekly basis, in respect of the following housing costs—

- (a) ground rent;
  - (b) service charges;
  - (c) payments by way of rentcharge;
  - (d) where the dwelling occupied as the home is a tent, payments in respect of the tent and the site on which it stands.
- (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 amount;
  - (b) where the costs are inclusive of ineligible service charges within the meaning of paragraph 1 of Schedule 1 to the Housing Benefit (General) Regulations (Northern Ireland) 1987 (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;

(c) any amount for repairs and improvements, and for this purpose the expression "repairs and improvements" has the same meaning it has in paragraph 16(2).

(3) Where arrangements are made for the housing costs, which are met under this paragraph and which are normally paid for a period of 52 weeks, to be paid instead for a period of 53 weeks, or to be paid irregularly, or so that no such costs are payable 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 the claimant or a member of his family—

(a) pays for reasonable repairs or redecorations to be carried out to the dwelling they occupy;

(b) that work was not the responsibility of the claimant or any member of his family; and

(c) in consequence of that work being done, the costs which are normally met under this paragraph are waived,

then those costs shall, for a period not exceeding 8 weeks, be treated as payable.

#### *Non-dependant deductions*

18.—(1) Subject to sub-paragraphs (2) to (8), the following deductions from the amount to be met under paragraphs 1 to 17 in respect of housing costs shall be made—

(a) in respect of a non-dependant aged 18 or over who is engaged in any work for which payment is made or which is done in expectation of payment, £30·00;

(b) in respect of a non-dependant aged 18 or over to whom head (a) does not apply, £5·00.

(2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies because he is in work, where the claimant satisfies the adjudication officer that the non-dependant's gross weekly income is—

(a) less than £74·00, the deduction to be made under this paragraph shall be the deduction specified in sub-paragraph (1)(b);

(b) not less than £74·00 but less than £111·00, the deduction to be made under this paragraph shall be £10·00;

(c) not less than £111·00 but less than £145·00, the deduction to be made under this paragraph shall be £14·00.

(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, but for this sub-paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.

(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 in respect of himself either—
    - (i) an attendance allowance, or
    - (ii) the care component of the disability living 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;
  - (c) if he is a full-time student during a period of study or, if he is not in remunerative work, during a recognised summer vacation appropriate to his course;
  - (d) if he is aged under 25 and in receipt of income support;
  - (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);
  - (f) to whom, but for paragraph (2C) of regulation 3 (definition of non-dependant) paragraph (2B) of that regulation would apply; or
  - (g) if he is not residing with the claimant because he has been a patient for a period in excess of 6 weeks, or is a prisoner, and for these purposes—
    - (i) “patient” and “prisoner” have the meanings given in regulation 21(3) (special cases), and
    - (ii) the period of 6 weeks shall be calculated by reference to paragraph (2) of that regulation as if that paragraph applied in his case.
- (8) In the case of a non-dependant to whom sub-paragraph (2) applies because he is in work, there shall be disregarded from his gross income—
- (a) any attendance allowance or disability living allowance received by him;
  - (b) any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust or the Independent Living Funds which had his income fallen to be calculated under regulation 40 (calculation of income other than earnings)(a) would have been disregarded under paragraph 21 of Schedule 9 (income in kind)(b); and
  - (c) any payment which had his income fallen to be calculated under regulation 40 would have been disregarded under paragraph 39 of

(a) Regulation 40 was amended by S.R. 1988 No. 431, S.R. 1990 No. 297 and S.R. 1991 No. 46

(b) Paragraph 21 was substituted by S.R. 1988 No. 146 and further amended by S.R. 1988 No. 205, S.R. 1990 No. 33, S.R. 1991 No. 204 and S.R. 1993 Nos. 195 and 233

Schedule 9 (payments made under certain trusts and certain other payments)(a).

*Rounding of fractions*

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

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(a) Paragraph 39 was substituted by S.R. 1991 No. 204 and further amended by S.R. 1992 No. 201 and S.R. 1993 Nos. 195 and 233

**Amendments of Schedules 8A and 8B to the Claims and Payments Regulations**

1.—(1) Schedule 8A to the Claims and Payments Regulations(a) (deductions from benefits and direct payment to third parties) shall be amended in accordance with sub-paragraphs (2) and (3).

(2) In paragraph 1 (interpretation)—

(a) for the definition of “housing costs” there shall be substituted the following definition—

““housing costs” means any housing costs met under Schedule 3 to the Income Support Regulations but—

(a) excludes costs under paragraph 17(1)(d) of that Schedule (tents and tent sites); and

(b) includes costs under paragraph 17(1)(a) (ground rent) and (c) (rentcharge) of that Schedule only when paid with costs under paragraph 17(1)(b) of that Schedule (service charges);”;

(b) for the definition of “mortgage payment” there shall be substituted the following definition—

““mortgage payment” means the aggregate of any payments which fall to be met under Schedule 3 to the Income Support Regulations in accordance with paragraphs 6 to 10 of that Schedule (housing costs to be met in income support) on a loan which qualifies under paragraph 15 or 16 of that Schedule (loans on residential property or loans for repairs and improvements to the dwelling occupied as the home) but less any amount deducted under paragraph 18 of that Schedule (non-dependant deductions);”.

(3) In paragraph 3(2A) (housing costs)(b) for “paragraph 10 (restrictions on meeting housing costs) or 11” there shall be substituted “paragraph 4(8) or (11) or 18” and for “paragraph 10 or, as the case may be, paragraph 11” there shall be substituted “paragraph 4(8) or (11) or 18”.

2. In a case where, on 1st October 1995, a claimant’s housing costs were limited to 50 per cent. of the eligible interest in accordance with paragraph 7(1)(b)(ii) of Schedule 3 to the Income Support Regulations as then in operation, then for so long as that paragraph would have continued to apply to him had it remained in operation, the provisions of Schedule 8A shall apply to him as if the amendments made to it by paragraph 1 had not been made.

3.—(1) Schedule 8B to the Claims and Payments Regulations(c) shall be amended in accordance with sub-paragraphs (2) to (5).

(2) For paragraph 2 (specified circumstances) there shall be substituted the following paragraph—

“*Specified circumstances*

2. The circumstances referred to in regulation 34ZA are that—

(a) S.R. 1987 No. 465; Schedule 8A was inserted by regulation 2(3) of S.R. 1988 No. 67; relevant amending regulations are S.R. 1991 No. 488 and S.R. 1992 No. 271

(b) Sub-paragraph (2A) was inserted by regulation 4(2)(c) of S.R. 1992 No. 271

(c) Schedule 8B was inserted by regulation 5 of S.R. 1992 No. 271; relevant amending regulations are S.R. 1993 No. 375

(a) the amount to be met under Schedule 3 to the Income Support Regulations is determined by reference to the standard rate (whether at the full rate or a lesser rate) and to any amount payable in accordance with paragraph 7 of that Schedule (transitional protection); and

(b) the relevant benefits to which a relevant beneficiary is entitled are payable in respect of a period of 7 days or a multiple of such a period.”.

(3) In paragraph 3 (specified part of relevant benefit)—

(a) for sub-paragraphs (1) and (2) there shall be substituted the following sub-paragraph—

“(1) Subject to sub-paragraphs (2) to (8), the part of any relevant benefits which, as determined by the adjudicating authority in accordance with regulation 34ZA, shall be paid by the Department directly to the qualifying lender (“the specified part”) is a sum equal to the amount of mortgage interest to be met in accordance with paragraphs 6 and 8 to 10 of Schedule 3 to the Income Support Regulations (housing costs) together with an amount (if any) determined under paragraph 7 of that Schedule (transitional protection).”;

(b) in sub-paragraph (3)—

(i) in head (b) for “paragraph 10 or 11” there shall be substituted “paragraph 4(8) or (11) or 18”; and

(ii) for the words from “where—” to the end there shall be substituted—

“where—

A = housing costs within the meaning of paragraph 1 of Schedule 3 to the Income Support Regulations;

B = the housing costs to be met in accordance with paragraphs 6 and 8 to 10 of Schedule 3 to the Income Support Regulations together with an amount (if any) determined under paragraph 7 of that Schedule (transitional protection); and

C = the sum which is not allowed or falls to be deducted in accordance with paragraph 18 of Schedule 3 to the Income Support Regulations.”;

(c) in sub-paragraph (5) for “Subject to sub-paragraphs (6) to (8)” there shall be substituted “Subject to sub-paragraphs (6) and (8)”; and

(d) sub-paragraph (7) shall be omitted.

(4) In paragraph 4 (more than one loan), for sub-paragraph (1) there shall be substituted the following sub-paragraph—

“(1) Subject to sub-paragraphs (2) to (4), where the borrower is liable to pay mortgage interest in respect of 2 or more different loans, the Department shall pay to the qualifying lender or, if there is more than one qualifying lender, to each qualifying lender—

(a) a sum equal to the mortgage interest determined by reference to paragraph 12 of Schedule 3 to the Income Support Regulations (the standard rate) in respect of each loan made by that lender; plus

(b) any amount payable in accordance with paragraph 7 of Schedule 3 to the Income Support Regulations (transitional protection) attributable to the particular loan; plus

(c) any additional amount attributable to a particular loan which may, under paragraph 3(5), have been taken into account in calculating the specified part.”.



(5) In paragraph 10(2)(a) (recovery of sums wrongly paid) after "interest has been reduced" there shall be inserted "or the rate specified in paragraph 12 of Schedule 3 to the Income Support Regulations (the standard rate) has been reduced".

**Amendments of Schedule 9 to the Income Support Regulations**

1. In Schedule 9 to the Income Support Regulations (sums to be disregarded in the calculation of income other than earnings) for paragraphs 29(a) and 30(b) there shall be substituted the following paragraphs—

“29.—(1) Subject to sub-paragraph (2), any payment received under an insurance policy, taken out to insure against the risk of being unable to maintain repayments on a loan which qualifies under paragraph 15 or 16 of Schedule 3 (housing costs in respect of loans to acquire an interest in a 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 the aggregate of—

- (a) the amount, calculated on a weekly basis, of any interest on that loan which is in excess of the amount met in accordance with Schedule 3;
- (b) the amount of any payment, calculated on a weekly basis, due on the loan attributable to the repayment of capital; and
- (c) any amount due by way of premiums on—
  - (i) that policy, or
  - (ii) a policy of insurance taken out to insure against loss or damage to any building or part of a building which is occupied by the claimant as his home.

(2) This paragraph shall not apply to any payment which is treated as possessed by the claimant by virtue of regulation 42(4)(a)(ii) (notional income).

30.—(1) Except where paragraph 29 applies, and subject to sub-paragraph (2), any payment made to the claimant which is intended to be used and is used as a contribution towards—

- (a) any payment due on a loan if secured on the dwelling occupied as the home which does not qualify under Schedule 3 (housing costs);
- (b) any interest payment or charge which qualifies in accordance with paragraphs 15 to 17 of Schedule 3 to the extent that the payment or charge is not met;
- (c) any payment due on a loan which qualifies under paragraph 15 or 16 of Schedule 3 attributable to the payment of capital;
- (d) any amount due by way of premiums on—
  - (i) that policy, or
  - (ii) a policy of insurance taken out to insure against loss or damage to any building or part of a building which is occupied by the claimant as his home;
- (e) 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 increased, where appropriate, in accordance with paragraph 2 of Schedule 4 (applicable amounts of persons in residential care homes and nursing homes) exceeds

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(a) Paragraph 29 was amended by S.R. 1993 Nos. 311 and 373

(b) Paragraph 30 was amended by S.R. 1988 No. 146, S.R. 1989 No. 139 and S.R. 1993 No. 149

the amount determined in accordance with regulation 19 (residential care and nursing homes) or the amount payable by the Department under Article 36(3) of the 1972 Order(a).

(2) This paragraph shall not apply to any payment which is treated as possessed by the claimant by virtue of regulation 42(4)(a)(ii) (notional income).”.

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(a) Article 36 was substituted by Article 25 of the Health and Personal Social Services (Northern Ireland) Order 1991 and amended by paragraph 2(3) to (5) of Schedule 1 to the Registered Homes (Northern Ireland) Order 1992

**Revocations**

Column (1) <i>Citation</i>	Column (2) <i>Reference</i>	Column (3) <i>Extent of Revocation</i>
The Income Support (General) (Amendment) Regulations (Northern Ireland) 1988	S.R. 1988 No. 146	Regulations 31 and 36(f)
The Income Support (General) (Amendment No. 4) Regulations (Northern Ireland) 1988	S.R. 1988 No. 318	Regulations 19 and 24(b), Schedule 1, Part I, paragraphs 7 and 11(b)
The Income Support (General) (Amendment No. 5) Regulations (Northern Ireland) 1988	S.R. 1988 No. 431	Regulation 16
The Income Support (General) (Amendment) Regulations (Northern Ireland) 1989	S.R. 1989 No. 139	Regulation 6, Schedule 1, paragraph 10
The Income Support (General) (Amendment No. 4) Regulations (Northern Ireland) 1989	S.R. 1989 No. 395	Regulation 7
The Income Support (General) (Amendment) Regulations (Northern Ireland) 1990	S.R. 1990 No. 131	Regulation 16
The Social Security (General) (Amendment No. 3) Regulations (Northern Ireland) 1990	S.R. 1990 No. 346	Regulation 7
The Family Credit and Income Support (General) (Amendment) Regulations (Northern Ireland) 1990	S.R. 1990 No. 387	Regulation 3(6)
The Income Support (General) (Amendment No. 5) Regulations (Northern Ireland) 1991	S.R. 1991 No. 474	Regulation 3
The Income-Related Benefits (Amendment) Regulations (Northern Ireland) 1992	S.R. 1992 No. 85	Regulation 3
The Income Support (General) (Amendment) Regulations (Northern Ireland) 1992	S.R. 1992 No. 147	Regulation 11
The Income-Related Benefits (Amendment No. 4) Regulations (Northern Ireland) 1992	S.R. 1992 No. 403	Regulation 4(11)

Column (1) <i>Citation</i>	Column (2) <i>Reference</i>	Column (3) <i>Extent of Revocation</i>
The Income Support (General) (Amendment) Regulations (Northern Ireland) 1993	S.R. 1993 No. 28	The whole of the Regulations
The Income-Related Benefits (Amendment) Regulations (Northern Ireland) 1993	S.R. 1993 No. 120	Regulation 4(5)
The Social Security Benefits (Amendments Consequential Upon the Introduction of Community Care) Regulations (Northern Ireland) 1993	S.R. 1993 No. 149	Schedule 1, paragraph 1(7)(b) Schedule 2, Schedule 2, paragraph 6(11)
The Social Security Benefits (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1993	S.R. 1993 No. 195	Regulation 5(3)(e)
The Income-Related Benefits and Social Security (Recoupment) (Amendment) Regulations (Northern Ireland) 1993	S.R. 1993 No. 233	Regulation 5(3)(e)
The Income Support (General) (Amendment No. 4) Regulations (Northern Ireland) 1993	S.R. 1993 No. 311	Regulations 3, 5 and 6
The Income-Related Benefits (Amendment No. 4) Regulations (Northern Ireland) 1993	S.R. 1993 No. 373	Regulation 4(18)
The Income Support (General) (Amendment No. 5) Regulations (Northern Ireland) 1993	S.R. 1993 No. 479	The whole of the Regulations
The Income-Related Benefits (Miscellaneous Amendments) Regulations (Northern Ireland) 1994	S.R. 1994 No. 77	Regulation 4(8)
The Income Support (General) (Amendment) Regulations (Northern Ireland) 1994	S.R. 1994 No. 138	The whole of the Regulations
The Income-Related Benefits (Miscellaneous Amendments) Regulations (Northern Ireland) 1995	S.R. 1995 No. 86	Regulation 2(10)

Column (1) <i>Citation</i>	Column (2) <i>Reference</i>	Column (3) <i>Extent of Revocation</i>
The Housing Benefit and Income Support (General) (Amendment) Regulations (Northern Ireland) 1995	S.R. 1995 No. 101	Regulation 3 In Regulation 4 the words "and paragraph 4 of Schedule 3 to the Income Support Regulations" and the words "or 3"
The Child Support and Income Support (Amendment) Regulations (Northern Ireland) 1995	S.R. 1995 No. 162	Regulation 11

*(This note is not part of the Regulations.)*

These Regulations make changes in the way housing costs are calculated for income support purposes.

The major changes, which are all to Schedule 3 to the Income Support (General) Regulations (Northern Ireland) 1987 (“the Income Support Regulations”) as substituted by the Schedule set out in Schedule 1 to these Regulations, are—

- (a) a standard rate of interest applies to all loans which qualify as housing costs;
- (b) housing costs are divided into existing housing costs and new housing costs; existing housing costs are costs incurred under an agreement entered into before 2nd October 1995; new housing costs are costs incurred under an agreement entered into after 1st October 1995 (paragraph 1 of the substituted Schedule);
- (c) in the case of existing housing costs, these costs are met at 50 per cent. where the claimant has been entitled to income support for a continuous period of 8 weeks or more, but less than 26 weeks, and in full thereafter;
- (d) in the case of new housing costs, these are met where the claimant has been entitled to income support for a continuous period of 39 weeks (paragraph 8 of the substituted Schedule).

The Regulations also make consequential changes to provisions for direct payments of housing costs to lenders where the borrower is liable to make payments of mortgage interest to a lender (regulation 3 and Schedule 2).

There are also changes to Schedule 9 to the Income Support Regulations so as to provide that monies utilised under policies of insurance for the payment of housing costs are, in part, not to be taken into account in determining the income of the claimant (regulation 4 and Schedule 3).

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, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.