

1995 No. 434

SOCIAL SECURITY

**The Social Security (Income Support and Adjudication)
(Amendment) Regulations (Northern Ireland) 1995**

Made 23rd November 1995

Coming into operation 12th December 1995

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) and 133(2)(h) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and section 25(1)(a) 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 Adjudication) (Amendment) Regulations (Northern Ireland) 1995 and shall come into operation on 12th December 1995.

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

Amendment of the Income Support (General) Regulations

2.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(d) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 3A(1)(e) (permitted period for cessation of entitlement to income support) “paragraph 7(10) of Schedule 3,” shall be omitted.

(3) In Schedule 3(f) (housing costs)—

(a) in paragraph 1 (housing costs)—

(i) in sub-paragraph (2), in the definition of “existing housing costs”, “to a third party” shall be omitted, and

(ii) in sub-paragraph (3)(b) “who is a non-dependant but” shall be omitted;

(b) in paragraph 3(11) (circumstances in which a person is to be treated as occupying a dwelling as his home), in head (c)(x) for “from another” there shall be substituted “, or by a person”;

(c) in paragraph 4 (housing costs not met)—

(a) 1992 c. 7

(b) 1992 c. 8

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

(d) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 No. 146, S.R. 1989 No. 395, S.R. 1990 Nos. 131, 297 and 305, S.R. 1991 No. 338, S.R. 1992 No. 6 and S.R. 1995 Nos. 67 and 301

(e) Regulation 3A was inserted by regulation 3 of S.R. 1989 No. 395

(f) Schedule 3 was substituted by Schedule 1 to S.R. 1995 No. 301

- (i) in sub-paragraph (8) “new” shall be omitted, and
 - (ii) in sub-paragraph (11) for “in accordance with this Schedule” there shall be substituted “by way of housing costs”;
- (d) in paragraph 6 (existing housing costs)—
- (i) in sub-paragraph (1) for “in receipt of” in both places where those words occur there shall be substituted “entitled to”, and
 - (ii) after sub-paragraph (1) there shall be inserted the following sub-paragraph—

“(1A) For the purposes of sub-paragraph (1), the eligible capital for the time being owing shall be determined on the date the existing housing costs are first met and thereafter on each anniversary of that date.”;
- (e) in paragraph 7(7) (transitional protection) after “2nd October 1995” there shall be inserted “provided the claim is made not more than 12 weeks after the last day of entitlement to housing costs relating to a claim made by the person to whom sub-paragraph (6) applies”;
- (f) in paragraph 8 (new housing costs)—
- (i) in sub-paragraph (1)(a) for “in receipt of” there shall be substituted “entitled to”, and
 - (ii) after sub-paragraph (1) there shall be inserted the following sub-paragraph—

“(1A) For the purposes of sub-paragraph (1), the eligible capital for the time being owing shall be determined on the date the new housing costs are first met and thereafter on each anniversary of that date.”;
- (g) in paragraph 11 (general provisions applying to new and existing housing costs)—
- (i) sub-paragraph (1) shall be omitted;
 - (ii) in sub-paragraph (3) for “Sub-paragraphs (1) and (2) do” there shall be substituted “Sub-paragraph (2) does”, and
 - (iii) after sub-paragraph (9) there shall be inserted the following sub-paragraphs—

“(10) Where in any case the amount for the time being specified for the purposes of sub-paragraph (5) is exceeded and there are 2 or more loans to be taken into account under either or both paragraphs 15 and 16, then the amount of eligible interest in respect of each of those loans to the extent that the loans remain outstanding shall be determined as if each loan had been reduced to a sum equal to the qualifying portion of that loan.

(11) For the purposes of sub-paragraph (10), the qualifying portion of a loan shall be determined by applying the following formula—

$$R \times \frac{S}{T}$$

where—

R = the amount for the time being specified for the purposes of sub-paragraph (4);

S = the amount of the outstanding loan to be taken into account;

T = the aggregate of all outstanding loans to be taken into account under paragraphs 15 and 16.”;

(h) in paragraph 12 (the standard rate) sub-paragraph (4) shall be omitted;

(i) in paragraph 14 (linking rule)—

(i) after sub-paragraph (3) there shall be inserted the following sub-paragraph—

“(3A) Where, for the purposes of sub-paragraphs (1) and (3), a person is treated as being in receipt of income support, for a certain period, he shall be treated as being entitled to income support for the same period.”;

(ii) in sub-paragraph (5) for “less” there shall be substituted “more”;

(iii) after sub-paragraph (5) there shall be inserted the following sub-paragraphs—

“(5A) Subject to sub-paragraph (5B), a person to whom sub-paragraph (4) applies and who is either a person to whom paragraph 4 of Schedule 1(a) applies (persons with caring responsibilities not required to be available for employment) or a lone parent shall, for the purposes of this Schedule, be treated as entitled to income support throughout any period of not more than 39 weeks following the refusal of a claim for income support made by or on behalf of that person.

(5B) Sub-paragraph (5A) shall not apply in relation to a person mentioned in that sub-paragraph who, during the period referred to in that sub-paragraph—

(a) is engaged in, or is treated as engaged in, remunerative work or whose partner is engaged in, or is treated as engaged in, remunerative work;

(b) is treated as not available for employment by virtue of regulation 10(1)(h)(b) (circumstances in which students are not treated as available for employment);

(a) Paragraph 4 was substituted by regulation 11(a) of S.R. 1991 No. 338 and amended by regulation 10(3) of S.R. 1992 No. 6

(b) Regulation 10(1)(h) was substituted by regulation 4(3) of S.R. 1990 No. 297 and amended by regulation 4(2) of S.R. 1990 No. 305

- (c) is temporarily absent from Northern Ireland, other than in the circumstances specified in regulation 4(2) and (3)(a) (temporary absence from Northern Ireland).”;
- (iv) in sub-paragraph (6)—
- (aa) for “sub-paragraph (5) applies” there shall be substituted “sub-paragraphs (5) and (5A) apply”;
- (bb) for “sub-paragraph (5)” there shall be substituted “sub-paragraphs (5) and (5A)”, and
- (cc) for “less” there shall be substituted “more”;
- (v) sub-paragraph (7) shall be omitted, and
- (vi) in sub-paragraph (9) for “in receipt of” in both places where those words occur there shall be substituted “entitled to”, and
- (j) in paragraph (18) (non-dependant deductions)—
- (i) in sub-paragraph (1)(a) for “work for which payment is made or which is done in expectation of payment” there shall be substituted “remunerative work”;
- (ii) in sub-paragraph (2) before “work” there shall be inserted “remunerative”, and
- (iii) in sub-paragraph (8) before “work” there shall be inserted “remunerative”.

(4) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings), in paragraph 30(1)(d)(b) for “that policy” there shall be substituted “an insurance policy taken out to insure against the risk of being unable to make the payments referred to in heads (a) to (c)”.

Amendment of the Social Security (Adjudication) Regulations

3. In regulation 63 of the Social Security (Adjudication) Regulations (Northern Ireland) 1995(c) (review in income support cases) after paragraph (6) there shall be inserted the following paragraphs—

“(7) Where—

(a) a claimant is in receipt of income support and his applicable amount includes an amount determined in accordance with Schedule 3 to the Income Support Regulations (housing costs), and

(b) the conditions referred to in paragraph (8) are satisfied,
any reduction in the amount of eligible capital owing in connection with a loan which qualifies under paragraph 15 or 16 of Schedule 3 to those Regulations shall not constitute a relevant change of circumstances for the purposes of section 23(1)(b) or (c) of the Administration Act.

(a) Regulation 4 was amended by regulation 3 of S.R. 1988 No. 146, S.R. 1990 No. 131 and S.R. 1995 No. 67

(b) Paragraphs 29 and 30 were substituted by paragraph 1 of Schedule 3 to S.R. 1995 No. 301

(c) S.R. 1995 No. 293

- (8) The conditions are that the reduction in eligible capital occurs—
- (a) in the period between the date when housing costs are first met under Schedule 3 to the Income Support Regulations and the first anniversary of that date;
 - (b) in the period between each subsequent anniversary of the date when the housing costs referred to in sub-paragraph (a) were first met.

(9) Where a claimant is in receipt of income support and payments made to that claimant which fall within paragraph 29 or 30(1)(a) to (c) of Schedule 9 to the Income Support Regulations have been disregarded in relation to the determination or review of the claim and the conditions in paragraph (10) are satisfied, any change in the amount of interest payable, whether—

- (a) on a loan qualifying under paragraph 15 or 16 of Schedule 3 to those Regulations to which those payments relate, or
- (b) on a loan not so qualifying which is secured on the dwelling occupied as a home to which those payments relate,

shall not constitute a relevant change of circumstances for the purposes of section 23(1)(b) or (c) of the Administration Act.

(10) The conditions are that the change in the amount of interest payable occurs—

- (a) in the period between the date the disregarded payments are first made to the claimant and the date when housing costs are first met under paragraph 6(1)(a), 8(1)(a) or 9(2)(a) of Schedule 3 to the Income Support Regulations;
- (b) in the period between the date when housing costs are first met under paragraph 6(1)(a), 8(1)(a) or 9(2)(a) of Schedule 3 to the Income Support Regulations and the date of the first subsequent change in the standard rate;
- (c) in the period between the dates of each subsequent change in the standard rate.

(11) In paragraph (10) “standard rate” has the same meaning as it has in paragraph 1(2) of Schedule 3 to the Income Support Regulations.”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 23rd November 1995.

(L.S.)

W. G. Purdy

Assistant Secretary

(This note is not part of the Regulations.)

These Regulations make miscellaneous amendments to the Income Support (General) Regulations (Northern Ireland) 1987 ("the Income Support Regulations") and the Social Security (Adjudication) Regulations (Northern Ireland) 1995 ("the Adjudication Regulations").

Regulation 2(3) and (4) amend Schedules 3 and 9 respectively of the Income Support Regulations and mostly make minor or consequential amendments clarifying those provisions which were substituted or, as the case may be, amended by regulations 2 and 4 of the Social Security (Income Support and Claims and Payments) (Amendment) Regulations (Northern Ireland) 1995 (S.R. 1995 No. 301) ("the 1995 Regulations"). In so far as these Regulations do not make minor or consequential amendments to the Income Support Regulations—

- (a) regulation 2(3)(a)(ii) widens the definition of a disabled person for the purposes of Schedule 3;
- (b) regulation 2(3)(b) corrects a rule on temporary absence so that it continues to cover people who have to leave their home because of violence from non-family members;
- (c) regulation 2(3)(d)(ii) and (f)(ii) provides for when the eligible capital outstanding on a loan shall be determined;
- (d) regulation 2(3)(e) provides that a claim must be made within 12 weeks from the end of a previous claim for housing costs;
- (e) regulation 2(3)(g)(i) omits the provision whereby the amount of a remortgage entered into after 2nd October 1995 shall, subject to certain conditions, be new housing costs, and
- (f) regulation 2(3)(i)(iii) provides that carers and lone parents may, in certain circumstances, be treated as entitled to income support, notwithstanding the fact that their income and/or capital exceeds certain thresholds.

Regulation 2(2) makes an amendment to regulation 3A of the Income Support Regulations which is consequential to the making of the 1995 Regulations.

Regulation 3 amends the Adjudication Regulations so as to limit the occasions when reductions in the capital outstanding on a loan are considered to be relevant changes of circumstances for the purpose of review of decisions. It also makes similar provision relating to changes in the rate of interest which affect the amount of income of the claimant which is disregarded.

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.