1979 No. 426

SOCIAL SECURITY

The Family Income Supplements (General) (Amendment No. 2) Regulations (Northern Ireland) 1979

Made . . . . . *5th December* 1979

Coming into operation . . . *31st December* 1979

The Department(a) of Health and Social Services, in exercise of the powers conferred by sections 4(1) and (2), 6(2) and 10 of the Family Income Supplements Act (Northern Ireland) 1971(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 Family Income Supplements (General) (Amendment No. 2) Regulations (Northern Ireland) 1979, and shall come into operation on 31st December 1979.

(2) In these regulations "the principal regulations" means the Family Income Supplements (General) Regulations (Northern Ireland) 1971(c).

Amendment of regulation 1 *of the principal regulations*

2. In regulation 1(2) of the principal regulations (interpretation) there shall be inserted the following—

(*a*) after the definition of "the Act"—

" 'advanced education' means full-time education for the purposes of—

(*a*) a course in preparation for a Degree, a Diploma of Higher Education, a Higher National Diploma or a teaching qualification; or

(*b*) any other course which is certified by the Department as being a course of a standard above Ordinary National Diploma or General Certificate of Education (advanced level);";

(*b*) after the definition of "the Commission"—

" 'the Department' means the Department of Health and Social Services;

'Education and Library Board' means a Board established under Article 3 of, and Part I of Schedule 2 to, the Education and Libraries (Northern Ireland) Order 1972(d);

'educational maintenance allowance' means the gross amount of any allowance paid by an Education and Library Board for the maintenance (in whole or in part) of a child aged not less than sixteen years undergoing a course of education other than a course of advanced education;

'recognised educational establishment' means an establishment recognised by the Department as being, or as comparable to, a university, college or school;".

(a) Formerly Ministry: *see* 1973 c. 36 Sch. 5 para. 8(1)

(b) 1971 c. 8 (N.I.): as substituted in the case of section 6(2) by the Pensioners and Family Income Supplement Payments Act 1972 (c. 75), section 3

(c) S.R. & O. (N.I.) 1971 No. 122 (p. 605) (the relevant amending regulations are S.R. & O. (N.I.) 1972 No. 223 (p. 1211), S.R. 1975 No. 249 (II, p. 1186) and S.R. 1977 No. 60 (I, p. 189))

(d) S.I. 1972/1263 (N.I. 12)

Amendment of regulation 2 of the principal regulations

3. At the end of regulation 2 of the principal regulations (computation of normal gross income of members of a family) there shall be inserted—

"(*h*) the whole of any sums by way of mobility allowance under section 37A of the Social Security (Northern Ireland) Act 1975(e);

(*i*) the whole of any award of educational maintenance allowance.

(6) The normal gross income of a family shall include the income of a child of that family derived from—

(*a*) the mother or father of that child, or any other person under a legally enforceable obligation to maintain that child;

(*b*) any fund to which the mother or father of that child, or any other person under a legally enforceable obligation to maintain that child, has contributed.".

Amendment of regulation 3(3) of the principal regulations

4. In regulation 3(3) of the principal regulations (claims made during a transitional period) for all of the words between "conferred by" and "a claim" (exclusive of both expressions) there shall be substituted "the Act and".

Amendment of regulation 9 of the principal regulations

5. For regulation 9 of the principal regulations (circumstances in which a person of or over the age of sixteen is to be treated as a child) there shall be substituted the following—

"**9.**—(1) For the purposes of the Act a person of or over the age of sixteen shall be treated as a child if at the date when benefit is claimed he is under the age of nineteen and receives full-time education not being advanced education by attendance at a recognised educational establishment.

(2) A person shall be treated for the purposes of paragraph (1) as receiving full-time education if he is receiving primary or secondary education in Northern Ireland otherwise than at school under special arrangements made under Article 6(2) of the Education and Libraries (Northern Ireland) Order 1972.".

Amendment of regulation 11 of the principal regulations

6. After regulation 11(1) of the principal regulations (review of determinations made by the Commission and the Appeal Tribunal) there shall be inserted—

"(1A) Where a review under paragraph (1)(*a*) arises from a disclosure of a material fact of which a person who claimed benefit was, or could reasonably have been expected to be, aware but of which he previously failed to furnish information to the Department, then if that review would result in either a new award of benefit or in an increase in the amount of benefit payable, such benefit or increase of benefit shall not be payable in respect of any period earlier than twelve months before the date on which that person first furnished that information.".

(e) 1975 c. 15; section 37A was inserted by the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)), Article 24

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 5th December 1979.

(L.S.) *W. J. Sloane*
Senior Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the regulations but is intended to indicate their general purport.)

These regulations further amend the Family Income Supplements (General) Regulations (Northern Ireland) 1971 ("the principal regulations").

Regulation 1 is formal.

Regulation 2 defines "advanced education", "the Department", "Education and Library Board", "educational maintenance allowance" and "recognised educational establishment".

Regulation 3, together with the definitions contained in regulation 2, adds mobility allowance and educational maintenance allowance to the list of deductions to be made in the calculation of normal gross income for the purposes of the Family Income Supplements Act (Northern Ireland) 1971 ("the Act") (set out in regulation 2 of the principal regulations). Regulation 3 also provides that certain income of a child derived, directly or indirectly, from a parent or person under a legal obligation to maintain that child is to be included in the normal gross income of the family of which that child is a member.

Regulation 4 amends regulation 3(3) of the principal regulations so that if any claim for benefit is made after a regulation under the Act is made, but before it comes into operation, the transitional provisions (enabling certain persons to claim benefit) will apply provided the claim is made not more than fifty-six days before that regulation comes into operation.

Regulation 5, together with the definitions contained in regulation 2, prescribes the circumstances in which a person of or over the age of sixteen is to be treated as a child.

Regulation 6 amends regulation 11 of the principal regulations to limit the Supplementary Benefits Commission's power to review a decision, in certain circumstances, on the ground that it was made in ignorance of a material fact of which the claimant was, or ought reasonably to have been, aware in respect of any period earlier than twelve months before that material fact was disclosed to the Department of Health and Social Services.