1992 No. 412

HOUSING

Housing Renovation etc. Grants (Reduction of Grant) Regulations (Northern Ireland) 1992

Made . . . . . *25th September 1992*
Coming into operation . . *31st October 1992*

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The Department of the Environment, in exercise of the powers conferred on it by Articles 2(2) and 47 of the Housing (Northern Ireland) Order 1992(**a**) and of every other power enabling it in that behalf, with the consent of the Department of Finance and Personnel, hereby makes the following Regulations:

(a) S.I. 1992/1725 (N.I. 15). *See* Article 2(2) for the definition of "the Department"

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Housing Renovation etc. Grants (Reduction of Grant) Regulations (Northern Ireland) 1992 and shall come into operation on 31st October 1992.

Interpretation

2. In these Regulations—

"the Order" means the Housing (Northern Ireland) Order 1992;

"the Contributions and Benefits Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**);

"application" means an application within Article 47(1) of the Order;

"assessment period" means such period as is prescribed in regulations 17 to 19 over which income falls to be determined;

"attendance allowance" means—

(*a*) an attendance allowance under section 64 of the Contributions and Benefits Act;

(*b*) an increase of disablement pension under section 104 of that Act;

(*c*) a payment under regulations made in exercise of the power conferred by paragraph 4(2)(*b*) of Schedule 8 to that Act;

(*d*) a payment analogous to a payment by way of an increase of an allowance payable in respect of constant attendance under paragraph 4 of Schedule 8 to the Social Security Contributions and Benefits Act 1992(**b**);

(*e*) a payment by virtue of Article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(**c**) or any analogous payment;

(*f*) any payment based on need for attendance which is paid as part of a war disablement pension;

"boarder" means a person who pays a charge for his accommodation and at least some cooked or prepared meals which are both prepared and consumed in that accommodation or associated premises;

"child" means a person under the age of 16;

"child benefit" means child benefit under Part IX of the Contributions and Benefits Act;

"close relative" means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple;

(a) 1992 c. 7
(b) 1992 c. 4
(c) S.I. 1983/686; the relevant amending instrument is S.I. 1984/1675

"community charge benefits" means community charge benefits under Part VII of the Social Security Contributions and Benefits Act 1992;

"community charge rebate" means a rebate under the provisions of section 24(*a*) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(**a**);

"concessionary payment" means a payment made under arrangements made by the Department of Health and Social Services, with the consent of the Department of Finance and Personnel, which is charged either to the Northern Ireland National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit under the Contributions and Benefits Act are charged;

"disability living allowance" means a disability living allowance under section 71 of the Contributions and Benefits Act;

"disability working allowance" means a disability working allowance under section 128 of the Contributions and Benefits Act;

"earnings" has the meaning assigned by regulation 21 or, as the case may be, 23;

"employed earner" means a person who is gainfully employed in Northern Ireland or the Republic of Ireland either under a contract of service, or in an office (including elective office) with emoluments chargeable to income tax under Schedule E or, as the case may be, chargeable under the legislation of the Republic of Ireland which is analogous to income tax under Schedule E;

"family" means—

(*a*) a married or unmarried couple;

(*b*) a married or unmarried couple and a member of the same household for whom one of them is, or both are, responsible and who is a child or a young person;

(*c*) a person who is not a member of a married or unmarried couple and a member of the same household for whom that person is responsible and who is a child or a young person;

"the Fund" means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992, or in Scotland, on 10th April 1992;

"Health and Social Services Board" means a Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(**b**);

"housing benefit" means housing benefit under Part VII of the Contributions and Benefits Act;

"income-related benefit" means any benefit to which section 122(1) of the Contributions and Benefits Act refers;

(**a**) 1987 c. 47; section 24 was amended by paragraph 32 of Schedule 12 to the Local Government Finance Act 1988 c. 41

(**b**) S.I. 1972/1265 (N.I. 14)

"income support" means income support under Part VII of the Contributions and Benefits Act;

"the Independent Living Fund" means the charitable trust established out of funds provided by the Secretary of State for Social Services for the purpose of providing financial assistance to those persons incapacitated by, or otherwise suffering from, very severe disablement who are in need of such assistance to enable them to live independently;

"invalid carriage or other vehicle" means a vehicle propelled by petrol engine or electric power supplied for use on the road and to be controlled by the occupant;

"lone parent" means a person who has no partner and who is responsible for and a member of the same household as a child or young person;

"the Macfarlane Trust" means the charitable trust, established partly out of funds provided by the Secretary of State for Social Services to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

"the Macfarlane (Special Payments) (No. 2) Trust" means the trust of that name, established on 3rd May 1991, partly out of funds provided by the Secretary of State for Social Security for the benefit of certain persons suffering from haemophilia and other beneficiaries;

"the MacFarlane (Special Payments) Trust" means the trust of that name, established on 29th January 1990, partly out of funds provided by the Secretary of State for Social Security for the benefit of certain persons suffering from haemophilia;

"married couple" has the meaning assigned to it by section 133 of the Contributions and Benefits Act;

"member of a couple" means a member of a married or unmarried couple;

"mobility supplement" means a supplement to which paragraph 7 of Schedule 3 refers;

"net earnings" means such earnings as are determined in accordance with regulation 22;

"net profit" means such profit as is determined in accordance with regulation 24;

"non-dependant" has the meaning assigned by regulation 4;

"occupational pension" means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

"partner" means—

(*a*) where a person is a member of a married or unmarried couple, the other member of that couple; or

(*b*) where a person is polygamously married to two or more members of his household, any such member;

"payment" includes part of a payment;

"policy of life insurance" means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

"polygamous marriage" means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;

"qualifying person" means a person in respect of whom payment has been made from the Fund;

"rates" has the same meaning as in the Rates (Northern Ireland) Order 1977(**a**);

"relevant person" has the meaning assigned by regulation 3;

"remunerative work" has the meaning assigned by regulation 5;

"self-employed earner" means a person who is gainfully employed in Northern Ireland or the Republic of Ireland otherwise than in employed earner's employment (whether or not he is also employed in such employment);

"single person" means a person who neither has a partner nor is a lone parent;

"social fund payment" means a payment under section 134 of the Contributions and Benefits Act;

"student" has the meaning assigned by regulation 38;

"supplementary benefit" means a supplementary pension or allowance under Article 3 or 6 of the Supplementary Benefits (Northern Ireland) Order 1977(**b**);

"training allowance" has the meaning assigned by regulation 2(1) of the Housing Benefit (General) Regulations (Northern Ireland) 1987(**c**);

"unmarried couple" means a man and woman who are not married to each other but are living together as husband and wife;

"voluntary organisation" has the meaning assigned by Article 143(1) of the Contributions and Benefits Act;

"war disablement pension" has the meaning assigned by section 146(2) of the Contributions and Benefits Act;

"war widow's pension" has the meaning assigned by section 146(2) of the Contributions and Benefits Act;

(**a**) S.I. 1977/2157 (N.I. 28); as amended by Article 3(2) of the Rates (Amendment) (Northern Ireland) Order 1983 (S.I. 1983/421 (N.I. 7))

(**b**) S.I. 1977/2156 (N.I. 27); provisions of the Supplementary Benefits (Northern Ireland) Order 1977, as amended by Article 7 of, and Part I of Schedule 2 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 18)), are set out in Part II of that Schedule. Articles 3 and 6 were repealed with effect from 11th April 1988 by Schedule 10 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

(**c**) S.R. 1987 No. 461; this definition was inserted by regulation 2 of the Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1990 (S.R. 1990 No. 136)

"year of assessment" has the meaning assigned by section 832(1) of the Income and Corporation Taxes Act 1988(**a**);

"young person" means a person, not being a person who is in receipt of income support or a person who is receiving advanced education within the meaning of regulation 12(2) of the Income Support (General) Regulations (Northern Ireland) 1987(**b**) (relevant education), aged 16 or over but under 19 who is treated as a child for the purposes of section 138 of the Contributions and Benefits Act (meaning of child).

Definition of relevant person

3.—(1) Subject to paragraphs (2) and (3), in respect of any one application a relevant person is any person who—

(*a*) is an applicant, or

(*b*) is not an applicant but is entitled to make the application and lives or intends to live in the dwelling or, as the case may be, a flat in the building or,

(*c*) where the application is for a disabled facilities grant, is the disabled occupant or one of the disabled occupants and is neither a person to whom sub-paragraph (*a*) or (*b*) applies nor a child or young person.

(2) Where any of sub-paragraphs (*a*), (*b*) or (*c*) of paragraph (1) applies to both members of a couple or to more than one member of a polygamous marriage, one member only of that couple or of that polygamous marriage shall be a relevant person in respect of that application.

(3) A young person shall not be a relevant person except where he is the only applicant.

Definition of non-dependant

4.—(1) In these Regulations, "non-dependant" means any person, except someone to whom paragraph (2) applies, who normally resides with a relevant person.

(2) This paragraph applies to—

(*a*) any member of the relevant person's family;

(*b*) if the relevant person is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;

(*c*) a child or young person who is living with the relevant person but who is not a member of his household by virtue of regulation 7 (membership of the same household);

(*d*) subject to paragraph (3), a person who jointly occupies the relevant person's dwelling and is either a co-owner of that dwelling with the relevant person or his partner (whether or not there are other co-owners) or is liable with the relevant person or his partner to make payments in respect of his occupation of the dwelling;

(**a**) 1988 c. 1

(**b**) S.R. 1987 No. 459; relevant amending regulations are S.R. 1990 No. 131

(*e*) subject to paragraph (3)—

(i) any person who is liable to make payments on a commercial basis to the relevant person or the relevant person's partner in respect of the occupation of the dwelling,

(ii) any person to whom or to whose partner the relevant person or the relevant person's partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling, or

(iii) any other member of the household of the person to whom or to whose partner the relevant person or the relevant person's partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling;

(*f*) a person who lives with the relevant person in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation (other than a Health and Social Services Board) which makes a charge to the relevant person or his partner for the services provided by that person.

(3) Excepting persons to whom paragraph (2)(*a*) to (*c*) and (*f*) refers, a person shall be a non-dependant if he resides with a relevant person to whom he is liable to make payments in respect of the dwelling and either—

(*a*) that relevant person is a close relative of his or his partner, or

(*b*) the tenancy or other agreement between them is other than on a commercial basis.

(4) For the purposes of this regulation—

(*a*) a person resides with another only if they share any accommodation but not if that accommodation is a bathroom, a lavatory or a communal area or any combination of them and not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord;

(*b*) ''communal area'' means an area, other than a room or rooms, of common access (including halls and passageways).

Remunerative work

5.—(1) Subject to the following provisions of this regulation, a person shall be treated for the purposes of these Regulations as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.

(2) In determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard shall be had to the average of hours worked over—

(*a*) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does not work, those periods but disregarding any other absences);

(*b*) in any other case, the period of 5 weeks immediately prior to the date of the application, or such other length of time as may, in the particular

case, enable the person's weekly average hours of work to be determined more accurately.

(3) Where no recognisable cycle has been established in respect of a person's work, regard shall be had to the number of hours or, where those hours fluctuate, the average of the hours, which he is expected to work in a week.

(4) A person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(5) A person in receipt of income support for more than 3 days in any period of 7 consecutive days commencing upon a Monday and ending on a Sunday shall be treated as not being in remunerative work in that week.

Circumstances in which a person is to be treated as responsible or not responsible for another

6.—(1) Subject to the following provisions of this regulation a person shall be treated as responsible for a child or young person who is normally living with him.

(2) Where there is a question as to which person a child or young person is normally living with, the child or young person shall be treated for the purposes of paragraph (1) as normally living with—

(*a*) the person who is receiving child benefit in respect of him; or

(*b*) if there is no such person—

(i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or

(ii) in any other case the person who has the primary responsibility for him.

(3) For the purposes of these Regulations any person other than the one treated as responsible for the child or young person under this regulation shall be treated as not so responsible.

Circumstances in which a person is to be treated as being or not being a member of the household

7.—(1) Subject to paragraphs (2) to (4), a relevant person and any partner and, where the relevant person or his partner is treated as responsible by virtue of regulation 6 (circumstances in which a person is to be treated as responsible or not responsible for another) for a child or young person, that child or young person and any child of that child or young person, shall be treated as members of the same household where any of them is absent from the dwelling occupied as his home.

(2) A child or young person shall not be treated as a member of the relevant person's household where he is—

(*a*) boarded out with the relevant person or his partner under a relevant enactment; or

(*b*) boarded out with the relevant person or his partner prior to adoption; or

(*c*) placed for adoption with the relevant person or his partner pursuant to a decision under the Adoption Agencies Regulations (Northern Ireland) 1989(**a**).

(3) Subject to paragraph (4), paragraph (1) shall not apply to a child or young person who is not living with the relevant person and he—

(*a*) is in the care of the Department of Health and Social Services under a relevant enactment; or

(*b*) has been boarded out with a person other than the relevant person prior to adoption; or

(*c*) has been placed for adoption pursuant to a decision under the Adoption Agencies Regulations (Northern Ireland) 1989.

(4) A child or young person to whom paragraph (3)(*a*) applies shall be treated as being a member of the relevant person's household in any period of 7 consecutive days commencing upon a Monday and ending on a Sunday where—

(*a*) that child or young person lives with the relevant person for part or all of that period, and

(*b*) it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.

(5) In this regulation "relevant enactment" means the Guardianship of Infants Act 1886(**b**), the Army Act 1955(**c**), the Air Force Act 1955(**d**), the Naval Discipline Act 1957(**e**), the Children and Young Persons Act (Northern Ireland) 1968(**f**), the Health and Personal Social Services (Northern Ireland) Order 1972(**g**), the Family Law Reform (Northern Ireland) Order 1977(**h**), the Matrimonial Causes (Northern Ireland) Order 1978(**i**), the Domestic Proceedings (Northern Ireland) Order 1980(**j**) and the Adoption (Northern Ireland) Order 1987(**k**).

The applicable amount

8. The applicable amount in respect of any one application shall be the aggregate of—

(*a*) the total of the weekly applicable amounts of all those persons who are relevant persons in the case of that application, and

(*b*) £40;

and the applicable amount of each relevant person shall be determined in accordance with regulation 12.

(**a**) S.R. 1989 No. 253
(**b**) 1886 c. 27
(**c**) 1955 c. 18
(**d**) 1955 c. 19
(**e**) 1957 c. 53
(**f**) 1968 c. 34 (N.I.)
(**g**) S.I. 1972/1265 (N.I. 14)
(**h**) S.I. 1977/1250 (N.I. 17)
(**i**) S.I. 1978/1045 (N.I. 15)
(**j**) S.I. 1980/563 (N.I. 5)
(**k**) S.I. 1987/2203 (N.I. 22)

Financial resources

9. In respect of any one application, the amount which is to be taken to be the financial resources of the applicant or applicants shall be the total of the incomes of all those persons who are relevant persons in the case of that application, and the income of each relevant person shall be determined in accordance with regulation 16.

PART II

REDUCTION IN AMOUNT OF GRANT

Reduction in amount of grant

10. The amount of any grant which may be paid in respect of an application shall, if the financial resources of the applicant or applicants exceed the applicable amount, be reduced from what it would otherwise have been—

(*a*) where the application is accompanied by an owner-occupation certificate, by the aggregate of the amounts obtained by multiplying—

(i) by 15·44 that part of any such excess which is £47·95 or less,

(ii) by 30·88 that part of any such excess which is greater than £47·95 but not more than £95·89,

(iii) by 123·53 that part of any such excess which is greater than £95·89 but not more than £191·78, and

(iv) by 308·83 that part of any such excess which is greater than £191·78;

(*b*) where the application is accompanied by a tenant's certificate, by the aggregate of the amounts obtained by multiplying—

(i) by 9·66 that part of any such excess which is £47·95 or less,

(ii) by 19·32 that part of any such excess which is greater than £47·95 but not more than £95·89,

(iii) by 77·26 that part of any such excess which is greater than £95·89 but not more than £191·78, and

(iv) by 193·16 that part of any such excess which is greater than £191·78.

Successive applications

11.—(1) In this regulation "current application" means an application to which regulation 10 refers.

(2) The amount by which a grant in respect of a current application is reduced shall, except where paragraph (4) applies, be abated—

(*a*) in a case to which paragraph (3)(*a*) or (*b*) applies, by the amount by which any grant paid in respect of any application there referred to was itself reduced by virtue of regulation 10 and this regulation;

(*b*) in a case to which paragraph (3)(*c*) or (*d*) applies, by the amount by which any grant paid in respect of any application there referred to was itself reduced, by virtue of Article 49(4) of the Order, by reference to persons (other than participating landlords) who are relevant persons in the current application;

(*c*) in a case to which paragraph (3)(*e*) applies, by the amount of any contribution notified under Article 67(1) of the Order to any person who is a relevant person in the current application.

(3) Subject to paragraph (4), this paragraph applies where—

(*a*) within the 10 years preceding the date of approval of the current application, at least one application, accompanied by an owner-occupation certificate, relating to the same dwelling or building was made, in respect of which at least one of the relevant persons is a relevant person in the current application;

(*b*) within the 5 years preceding the date of approval of the current application, at least one application, accompanied by a tenant's certificate, relating to the same dwelling or building was made, in respect of which at least one of the relevant persons is a relevant person in the current application;

(*c*) within the 10 years preceding the date of approval of the current application, at least one tenants' common parts application relating to the same building was made, in respect of which at least one of the relevant persons in the current application was an occupying tenant in relation to a flat in the building by virtue of the interest mentioned in Article 43(4)(*b*) of the Order (common parts grants: preliminary conditions) and was also an applicant;

(*d*) within the 5 years preceding the date of approval of the current application, at least one tenants' common parts application relating to the same building was made, in respect of which at least one of the relevant persons in the current application was an occupying tenant in relation to a flat in the building by virtue of such an interest as is mentioned in Article 43(4)(*c*) to (*e*) of the Order and was also an applicant; or

(*e*) within the 10 years preceding the date of approval of the current application, at least one of the relevant persons in the current application signified scheme consent under Article 67(1) of the Order (contributions by participants) in respect of at least one group repair scheme in relation to which the same dwelling, building or flat was, or was part of, a qualifying building.

(4) Paragraph (2) does not apply in any case where, by reason of reduction of grant referred to in paragraph (2)(*a*) or (*b*), no grant was paid in respect of the application, except where the eligible works in respect of which the application was approved were executed to a satisfactory standard.

PART III

APPLICABLE AMOUNTS

Applicable amounts

12. Subject to regulation 13 (polygamous marriages), the weekly applicable amount of a relevant person shall be the aggregate of such of the following amounts as may apply in his case—

(*a*) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph (1), (2) or (3), as the case may be, in column 1 of the table in paragraph 1 of Schedule 1 (applicable amounts);

(*b*) an amount determined in accordance with paragraph 2 of Schedule 1 in respect of any child or young person who is a member of his family, except a child or young person whose capital, if determined in accordance with Chapter VI of Part IV (income and capital) in like manner as for the relevant person, except where otherwise provided, would exceed £5,000;

(*c*) if he is a member of a family of which at least one member is a child or young person, an amount specified in Part II of Schedule 1 (family premium);

(*d*) the amount of any premiums which may be applicable to him determined in accordance with Parts III and IV of Schedule 1 (premiums).

Polygamous marriages

13. Where a relevant person is a member of a polygamous marriage, his weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case—

(*a*) the highest amount applicable to him and one of his partners determined in accordance with paragraph (3) in column 1 of the table in paragraph 1 of Schedule 1 as if he and that partner were a couple;

(*b*) an amount equal to the difference between the amounts specified in paragraphs (3)(*b*) and (1)(*b*) in column 1 of the table in paragraph 1 of Schedule 1 in respect of each of his other partners;

(*c*) an amount determined in accordance with paragraph 2 of Schedule 1 in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household, except a child or young person whose capital, if determined in accordance with Chapter VI of Part IV (income and capital) in like manner as for the relevant person, except where otherwise provided, would exceed £5,000;

(*d*) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part II of Schedule 1 (family premium);

(*e*) the amount of any premiums which may be applicable to him determined in accordance with Parts III and IV of Schedule 1 (premiums).

PART IV

INCOME AND CAPITAL

CHAPTER I

GENERAL

Income and capital of relevant person

14. Where a relevant person is a member of a family, the income and capital of any member of that family shall, except where otherwise provided, be treated as the income and capital of that person.

Determination of income and capital of members of relevant person's family and of a polygamous marriage

15.—(1) The income and capital of a relevant person's partner and, subject to paragraph (2) and to regulation 29 (modifications in respect of child and young person), the income of a child or young person which by virtue of regulation 14 is to be treated as income and capital of the relevant person shall be determined in accordance with the following provisions of this Part in like manner as for the relevant person; and any reference to the relevant person shall be construed for the purposes of this Part as if it were a reference to his partner or that child or young person.

(2) Regulations 22(2) and 24(2), so far as they relate to paragraphs 1 to 10 of Schedule 2 (sums to be disregarded in the determination of earnings), shall not apply to a child or young person.

(3) Where a relevant person or the partner of that person is married polygamously to 2 or more members of his household—

(*a*) the relevant person shall be treated as possessing capital and income belonging to each such member and the income of any child or young person who is one of that member's family; and

(*b*) the income and capital of that member or, as the case may be, the income of that child or young person shall be determined in accordance with the following provisions of this Part in like manner as for the relevant person or, as the case may be, as for any child or young person who is a member of his family.

CHAPTER II

INCOME

Determination of income on a weekly basis

16.—(1) The income of a relevant person shall be determined on a weekly basis by aggregating—

(*a*) his average weekly earnings from employment as an employed earner, determined in accordance with this Chapter and Chapter III,

(*b*) his average weekly earnings from employment as a self-employed earner, determined in accordance with this Chapter and Chapter IV,

(*c*) his average weekly income other than earnings, determined in accordance with this Chapter and Chapter V,

(*d*) the weekly tariff income determined under regulation 37 (determination of tariff income from capital).

(2) For the purposes of paragraph (1) "income" includes income to which regulations 27 (capital treated as income), 28 (notional income) and 43 (treatment of student loans) refer.

Average weekly earnings of employed earners

17. Where the income of a relevant person consists of or includes earnings from employment as an employed earner, his average weekly earnings from such employment shall be determined by reference to his earnings from such employment over the period of 52 weeks immediately preceding the application or, where his earnings fluctuate, over such other lesser period immediately preceding the application as may enable his average weekly earnings to be determined more accurately.

Average weekly earnings of self-employed earners

18. Where the income of a relevant person consists of or includes earnings from employment as a self-employed earner, his average weekly earnings from such employment shall be determined by reference to his earnings from such employment over such period, not exceeding 52 weeks immediately preceding the application, as is appropriate in order that his average weekly earnings over such period may be determined accurately.

Average weekly income other than earnings

19. Any part of a relevant person's income which does not consist of earnings shall be determined by reference to such income over such period not exceeding 52 weeks immediately preceding the application as is appropriate in order that his average weekly income over such period may be determined accurately.

Determination of weekly income

20. For the purposes of regulations 17 to 19 (average weekly income), where the period in respect of which a payment is made—

(*a*) does not exceed a week, the weekly amount shall be the amount of that payment;

(*b*) exceeds a week, the weekly amount shall be determined—

(i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;

(ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the quotient by 7.

CHAPTER III

EMPLOYED EARNERS

Earnings of employed earners

21.—(1) Subject to paragraph (2), "earnings" means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

(*a*) any bonus or commission;

(*b*) any payment in lieu of remuneration except any periodic sum paid to a relevant person on account of the termination of his employment by reason of redundancy;

(*c*) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only insofar as it represents loss of income;

(*d*) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;

(*e*) any payment by way of a retainer;

(*f*) any payment made by the relevant person's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the employer in respect of—

(i) travelling expenses incurred by the relevant person between his home and place of employment,

(ii) expenses incurred by the relevant person under arrangements made for the care of a member of his family owing to the relevant person's absence from home;

(*g*) any award of compensation made under Article 32(2)(*a*) or (5) of the Industrial Relations (Northern Ireland) Order 1976(**a**) (remedies and compensation for unfair dismissal);

(*h*) any such sum as is referred to in section 112(3) of the Contributions and Benefits Act (certain sums to be earnings);

(*i*) any statutory sick pay under Part XI of the Contributions and Benefits Act or statutory maternity pay under Part XII of that Act;

(*j*) any payment made under the legislation of, or under any scheme operating in, the Republic of Ireland which is analogous to income to which sub-paragraphs (*g*) to (*i*) relate.

(2) Earnings shall not include—

(*a*) any payment in kind;

(*b*) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;

(*c*) any occupational pension.

(**a**) S.I. 1976/1043 (N.I. 16); Article 32(2)(*a*) and (5) was amended by paragraph 4(5) of Schedule 3 to the Industrial Relations (Northern Ireland) Order 1987 (S.I. 1987/936 (N.I. 9))

Determination of net earnings of employed earners

22.—(1) For the purposes of regulation 17 (average weekly earnings of employed earners), the earnings of a relevant person derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings as determined under paragraph (3).

(2) There shall be disregarded from a relevant person's net earnings, any sum, where applicable, specified in paragraphs 1 to 12 of Schedule 2.

(3) For the purposes of paragraph (1) net earnings shall be determined by taking into account the gross earnings of the relevant person from that employment over the assessment period, less—

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

(i) income tax,

(ii) primary Class 1 contributions under the Contributions and Benefits Act; and

(*b*) one-half of any sum paid by the relevant person by way of a contribution towards an occupational or personal pension scheme.

(4) Where the relevant person is an employed earner in the Republic of Ireland the amounts to be deducted for income tax and primary Class 1 contributions under this regulation shall be such amounts as, in the opinion of the Executive, would have been deducted had the relevant person been employed in Northern Ireland.

CHAPTER IV

SELF-EMPLOYED EARNERS

Earnings of self-employed earners

23. "Earnings", in the case of employment as a self-employed earner, means the gross income of the employment and shall include any allowance paid pursuant to arrangements made by the Department of Economic Development(**a**) under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(**b**) or any equivalent allowance payable under Republic of Ireland legislation to the relevant person for the purpose of assisting him in carrying on his business.

Determination of net profit of self-employed earners

24.—(1) For the purposes of regulation 18 (average weekly earnings of self-employed earners) the earnings of a relevant person to be taken into account shall be—

(*a*) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;

(**a**) *See* S.R. & O. (N.I.) 1964 No. 205, Article 3 for change in style of Ministry of Labour and National Insurance to Ministry of Health and Social Services; S.R. and O. (N.I.) 1973 No. 504, Article 6 for transfer of functions from Ministry of Health and Social Services to Department of Manpower Services and S.I. 1982/846 (N.I. 11), Article 3 for renaming the Department of Manpower Services the Department of Economic Development

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

(*b*) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations (Northern Ireland) 1975(**a**), his share of the net profit derived from that employment, less—

(i) an amount in respect of income tax and of social security contributions payable under the Contributions and Benefits Act determined in accordance with regulation 25 (deduction of tax and contributions for self-employed earners), and

(ii) one-half of any qualifying premium payable.

(2) There shall be disregarded from a relevant person's net profit, any sum, where applicable, specified in paragraphs 1 to 12 of Schedule 2.

(3) For the purposes of paragraph (1)(*a*) the net profit of the employment shall, except where paragraph (9) applies, be determined by taking into account the earnings of the employment over the assessment period less—

(*a*) subject to paragraphs (5) to (7), any expenses wholly and exclusively incurred in that period for the purposes of that employment;

(*b*) an amount in respect of—

(i) income tax, and

(ii) social security contributions payable under the Contributions and Benefits Act, determined in accordance with regulation 25 (deduction of tax and contributions for self-employed earners); and

(*c*) one-half of any qualifying premium payable.

(4) For the purposes of paragraph (1)(*b*) the net profit of the employment shall be determined by taking into account the earnings of the employment over the assessment period less, subject to paragraphs (5) to (7), any expenses wholly and exclusively incurred in that period for the purposes of the employment.

(5) Subject to paragraph (6), no deduction shall be made under paragraph (3)(*a*) or (4), in respect of—

(*a*) any capital expenditure;

(*b*) any depreciation of any capital asset;

(*c*) any sum employed or intended to be employed in the setting up or expansion of the employment;

(*d*) any loss incurred before the beginning of the assessment period;

(*e*) the repayment of capital on any loan taken out for the purposes of the employment;

(*f*) any expenses incurred in providing business entertainment; and

(*g*) any debts, except bad debts proved to be such, but this sub-paragraph shall not apply to any expenses incurred in the recovery of a debt.

(6) A deduction shall be made under paragraph (3)(*a*) or (4) in respect of the repayment of capital on any loan used for—

(a) S.R. 1975 No. 108; to which there are amendments not relevant to these regulations

(*a*) the replacement in the course of business of equipment or machinery; and

(*b*) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

(7) The Executive shall not make a deduction in respect of any expenses under paragraph (3)(*a*) or (4) where, given the nature and the amount of the expense, it has been unreasonably incurred.

(8) For the avoidance of doubt—

(*a*) a deduction shall not be made under paragraph (3)(*a*) or (4) in respect of any sum unless it has been expended for the purposes of the business;

(*b*) a deduction shall be made thereunder in respect of—

(i) the excess of any value added tax paid over value added tax received in the assessment period;

(ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;

(iii) any payment of interest on a loan taken out for the purposes of the employment.

(9) Where a relevant person is engaged in employment as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less—

(*a*) an amount in respect of—

(i) income tax, and

(ii) social security contributions payable under the Contributions and Benefits Act, determined in accordance with regulation 25 (deduction of tax and contributions for self-employed earners); and

(*b*) one-half of any qualifying premium payable.

(10) For the avoidance of doubt where a relevant person is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed earner or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.

(11) In this regulation "qualifying premium" means any premium or other consideration payable under an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision for the relevant person of a life annuity in old age or the provision of an annuity for his partner or for any one or more of his dependants and in respect of which relief for income tax may be given.

(12) Where the relevant person is a self-employed earner in the Republic of Ireland the amounts to be deducted for income tax and contributions under this regulation shall be such amounts as, in the opinion of the Executive, would have been deducted had the relevant person been employed in Northern Ireland.

Deduction of tax and contributions for self-employed earners

25.—(1) The amount to be deducted in respect of income tax under regulation 24(1)(*b*)(i), (3)(*b*)(i) or (9)(*a*)(i) (determination of net profit of self-employed earners) shall be determined on the basis of the amount of chargeable income and as if that income were assessable to income tax at the basic rate of tax in the year of assessment in which the application was made less only the personal allowance to which the relevant person is entitled under sections 257 and 259 of the Income and Corporation Taxes Act 1988(**a**) (personal allowance) as is appropriate to his circumsrances; but, if the assessment period is less than a year, the amount of the personal allowance deductible under this paragraph shall be calculated on a pro-rata basis.

(2) The amount to be deducted in respect of social security contributions under regulation 24(1)(*b*)(i), (3)(*b*)(ii) or (9)(*a*)(ii) shall be the total of—

(*a*) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, (3) of the Contributions and Benefits Act except where the relevant person's chargeable income is less than the amount for the time being specified in section 11(4) of that Act (small earnings exception); and

(*b*) the amount of Class 4 contributions (if any) which would be payable under section 15(3) of that Act (Class 4 contributions recoverable under the Income Tax Acts) in respect of profits or gains equal to the amount of that income.

(3) In this regulation "chargeable income" means—

(*a*) except where sub-paragraph (*b*) applies, the earnings derived from the employment less any expenses deducted under paragraph (3)(*a*) or, as the case may be, (4) of regulation 24;

(*b*) in the case of employment as a child minder, one third of the earnings of that employment.

CHAPTER V

OTHER INCOME

Determination of income other than earnings

26.—(1) For the purposes of regulation 19 (average weekly income other than earnings), the income of a relevant person which does not consist of earnings to be taken into account shall, subject to paragraphs (2) and (3), be his gross income and any capital treated as income under regulation 27 (capital treated as income).

(2) There shall be disregarded from the determination of a relevant person's gross income under paragraph (1) any sum, where applicable, specified in Schedule 3.

(**a**) 1988 c. 1; section 257 was substituted by section 33 of the Finance Act 1988 c. 39; section 259(1) was substituted by section 35 and paragraph 5 of Schedule 3 to, and section 259(2) was amended by section 30 of, the Finance Act 1988

(3) Where the payment of any benefit under the Contributions and Benefits Act is subject to any deduction by way of recovery the amount to be taken into account under paragraph (1) shall be the gross amount payable.

(4) For the avoidance of doubt there shall be included as income to be taken into account under paragraph (1) any payment to which regulation 21(2) applies (payments which are not earnings).

Capital treated as income

27. Any payment received under an annuity, and any earnings to the extent that they are not a payment of income, shall be treated as income.

Notional income

28.—(1) A relevant person shall be treated as possessing income of which he has deprived himself for the purpose of increasing the amount of grant.

(2) Except in the case of a discretionary trust or a trust derived from a payment made in consequence of a personal injury, any income which would have become available to the relevant person upon application being made, but which has not been acquired by him, shall be treated as possessed by the relevant person but only from the date on which it could be expected to have been acquired had an application been made.

(3) Any payment of income, other than a payment of income made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund or the Independent Living Fund, made—

(*a*) to a third party in respect of a relevant person being a single person or in respect of a member of the family (but not a member of the third party's family) shall be treated as possessed by that single person or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel, eligible rates or rent to which regulation 9 or 10 of the Housing Benefit (General) Regulations (Northern Ireland) 1987(**a**) refers, or both, of that single person or, as the case may be, of any member of that family;

(*b*) to a relevant person being a single person or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single person or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

(4) Where—

(*a*) a relevant person performs a service for another person; and

(*b*) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,

the Executive shall treat the relevant person as possessing such earnings (if any) as is reasonable for that employment unless the relevant person satisfies

(**a**) S.R. 1987 No. 461; the relevant amending regulations are S.R. 1988 No. 424, S.R. 1990 No. 297 and S.R. 1990 No. 442

the Executive that the means of that person are insufficient for him to pay or pay more for the service; but this paragraph shall not apply to a relevant person who is engaged by a charitable or voluntary organisation or is a volunteer if it is reasonable for him to provide his services free of charge.

(5) In the case of an application to which Article 64(3)(*b*) of the Order applies (renovation grants relating to 2 or more dwellings), there shall be treated as possessed by the relevant person 90 per cent. of the amount of the aggregate of the rents of each of the dwellings to be provided, other than any in respect of which an owner-occupation certificate accompanies the application, which may reasonably be expected to be obtained either where—

(*a*) a protected or statutory tenancy, within the meaning of the Rent (Northern Ireland) Order 1978(**a**) subsists; or

(*b*) the dwelling is let on the open market.

(6) Where a relevant person is treated as possessing any income under any of paragraphs (1) to (3) and (5) the foregoing provisions of this Part shall apply for the purposes of determining the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

(7) Where a relevant person is treated as possessing any earnings under paragraph (4) the foregoing provisions of this Part shall apply for the purposes of determining the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph (3) of regulation 22 (determination of net earnings of employed earners) shall not apply and his net earnings shall be determined by taking into account those earnings which he is treated as possessing, less—

(*a*) an amount in respect of income tax equivalent to an amount determined by applying to those earnings the basic rate of tax in the year of assessment in which the application was made less only the personal allowance to which the relevant person is entitled under sections 257 and 259 of the Income and Corporation Taxes Act 1988 (personal allowance) as is appropriate to his circumstances; but if the assessment period is less than a year the amount of the personal allowance deductible under this sub-paragraph shall be determined on a pro-rata basis;

(*b*) an amount in respect of primary Class 1 contributions payable under the Contributions and Benefits Act in respect of those earnings; and

(*c*) one-half of any sum payable by the relevant person by way of a contribution towards an occupational or personal pension scheme.

(8) In paragraph (3) the expression ''ordinary clothing or footwear'' means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.

(9) Where the relevant person is an employed earner in the Republic of Ireland the amounts to be deducted for income tax and primary Class 1 contributions under this regulation shall be such amounts as, in the opinion of

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(**a**) S.I. 1978/1050 (N.I. 20)

the Executive, would have been deducted had the relevant person been employed in Northern Ireland.

Modifications in respect of child and young person

29.—(1) Where the income of a child or young person, other than income consisting of any maintenance payment whether under a court order or not, determined in accordance with the foregoing provisions of this Part exceeds the amount included under Schedule 1 in the determination of the relevant person's applicable amount for that child or young person by way of the personal allowance and disabled child premium, if any, the excess shall not be treated as income of the relevant person.

(2) Where the capital of a child or young person, if determined in accordance with Chapter VI in like manner as for the relevant person, except where otherwise provided, would exceed £5,000, any income of that child or young person shall not be treated as income of the relevant person.

(3) In determining the net earnings or net profit of a child or young person there shall be disregarded (in addition to any sum which falls to be disregarded under paragraphs 11 and 12 of Schedule 2) any sum specified in paragraphs 13 and 14 of that Schedule.

(4) Any income of a child or young person which is to be disregarded under Schedule 3 shall be disregarded in such manner as to produce the result most favourable to the relevant person.

CHAPTER VI

CAPITAL

Determination of capital

30.—(1) The capital of a relevant person to be taken into account shall, subject to paragraph (2), be the whole of his capital determined in accordance with this Part and any income treated as capital under regulation 32 (income treated as capital).

(2) There shall be disregarded from the determination of a relevant person's capital under paragraph (1), any capital, where applicable, specified in Schedule 4.

Disregard of capital of child or young person

31. The capital of a child or young person who is a member of the relevant person's family shall not be treated as capital of the relevant person.

Income treated as capital

32.—(1) Any bounty derived from employment to which paragraph 6 of Schedule 2 applies and paid at intervals of at least one year shall be treated as capital.

(2) Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to—

(*a*) income tax under Schedule D or E;

(*b*) income tax under the legislation of the Republic of Ireland which is analagous to income tax under Schedule D or E,

shall be treated as capital.

(3) Any holiday pay which is not earnings under regulation 21(1)(*d*) (earnings of employed earners) shall be treated as capital.

(4) Except any income derived from capital disregarded under paragraphs 1, 2, 3, 5, 8, 14, 25 or 26 of Schedule 4, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the relevant person's account.

(5) In the case of employment as an employed earner, any advance of earnings or any loan made by the relevant person's employer shall be treated as capital.

(6) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund or the Independent Living Fund, shall be treated as capital.

Determination of capital in the United Kingdom

33. Capital which a relevant person possesses in the United Kingdom shall be determined—

(*a*) except in a case to which paragraph (*b*) applies, at its current market or surrender value less—

(i) where there would be expenses attributable to sale, 10 per cent., and

(ii) the amount of any incumbrance secured on it;

(*b*) in the case of an Ulster or National Savings Certificate—

(i) if purchased from an issue the sale of which ceased before 1st July last preceding the date of the application, at the price which it would have realised on that 1st July had it been purchased on the last day of that issue;

(ii) in any other case, at its purchase price.

Determination of capital outside the United Kingdom

34. Capital which a relevant person possesses in a country outside the United Kingdom shall be determined—

(*a*) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;

(*b*) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer;

less, where there would be expenses attributable to sale, 10 per cent. and the amount of any incumbrance secured on it.

Notional capital

35.—(1) A relevant person shall be treated as possessing capital of which he has deprived himself for the purpose of increasing the amount of grant.

(2) Except in the case of—

(*a*) a discretionary trust; or

(*b*) a trust derived from a payment made in consequence of a personal injury; or

(*c*) any loan which would be obtained only if secured against capital disregarded under Schedule 4,

any capital which would have become available to the relevant person upon application being made, but which has not been acquired by him, shall be treated as possessed by him but only from the date on which it could be expected to have been acquired had an application been made.

(3) Any payment of capital, other than a payment of capital made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund or the Independent Living Fund, made—

(*a*) to a third party in respect of a single relevant person or in respect of a member of the family (but not a member of the third party's family) shall be treated as possessed by that single person or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel, eligible rates or rent to which regulation 9 or 10 of the Housing Benefit (General) Regulations (Northern Ireland) 1987 refers, or both, of that single person or, as the case may be, of any member of that family;

(*b*) to a single relevant person or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single person or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

(4) Where a relevant person stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case—

(*a*) the value of his holding in that company shall, notwithstanding regulation 30 (determination of capital), be disregarded; and

(*b*) he shall, subject to paragraph (5), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter shall apply for the purposes of determining that amount as if it were actual capital which he does possess.

(5) For so long as the relevant person undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (4) shall be disregarded.

(6) Where a relevant person is treated as possessing capital under any of paragraphs (1) to (3) the foregoing provisions of this Chapter shall apply for

the purposes of determining its amount as if it were actual capital which he does possess.

(7) In paragraph (3) the expression "ordinary clothing or footwear" means clothing or footwear for normal daily use but does not include school uniforms, or clothing or footwear used solely for sporting activities.

Capital jointly held

36. Except where a relevant person possesses capital which is disregarded under regulation 35(4) (notional capital) where a relevant person and one or more persons are beneficially entitled in possession to any capital asset they shall be treated as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Chapter shall apply for the purposes of determining the amount of capital which the relevant person is treated as possessing as if it were actual capital which the relevant person does possess.

Determination of tariff income from capital

37.—(1) Where the relevant person's capital determined in accordance with this Part exceeds £5,000 it shall be treated as equivalent to a weekly tariff income of £1 for each complete £250 in excess of £5,000.

(2) Notwithstanding paragraph (1) where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly tariff income of £1.

(3) For the purposes of paragraph (1), capital includes any income treated as capital under regulation 32 (income treated as capital).

PART V

STUDENTS

Interpretation

38. In this Part—

"contribution" means any contribution in respect of the income of any other person which a Minister of the Crown or an education authority as defined in regulation 46 of the Housing Benefit (General) Regulations (Northern Ireland) 1987(**a**) takes into account in assessing the amount of the student's grant and by which the amount is, as a consequence, reduced;

"course of study" means any full-time or part-time course of study or sandwich course whether or not a grant is made for attending it;

"full-time student" includes a student on a sandwich course;

"grant" means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment derived from funds made available by the

(a) S.R. 1987 No. 461; to which there are no relevant amendments

Department of Education for the purpose of assisting students in financial difficulties under Article 50 or 51 of the Education and Libraries (Northern Ireland) Order 1986(**a**);

"grant income" means—

(*a*) any income by way of a grant;

(*b*) any contribution whether or not it is paid;

"sandwich course" has the meaning assigned to it in regulation 3(1) of the Students Awards Regulations (Northern Ireland) 1991(**b**);

"student" means a person, other than a person in receipt of a training allowance, who is attending a course of study at an educational establishment.

Treatment of students

39. These Regulations shall have effect in relation to students subject to the following provisions of this Part.

Determination of grant income

40.—(1) The amount of a student's grant income to be taken into account shall, subject to paragraphs (2) and (3), be the whole of his grant income.

(2) There shall be excluded from a student's grant income any payment—

(*a*) intended to meet tuition fees or examination fees;

(*b*) intended to meet the cost of special equipment for a student on a course which began before 1st September 1986 in architecture, art and design, home economics, landscape architecture, medicine, music, ophthalmic optics, orthoptics, physical education, physiotherapy, radiography, occupational therapy, dental hygiene, dental therapy, remedial gymnastics, town and country planning and veterinary science or medicine;

(*c*) in respect of the student's disability;

(*d*) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;

(*e*) on account of the student maintaining a home at a place other than that at which he resides during his course;

(*f*) on account of any other person but only if that person is residing outside of the United Kingdom and there is no applicable amount in respect of him;

(*g*) intended to meet the cost of books and equipment (other than special equipment for a student described in sub-paragraph (*b*)) or, in the case of a full-time student, if not so intended an amount equal to £267 towards such costs;

(*h*) intended to meet travel expenses incurred as a result of his attendance on the course.

(**a**) S.I. 1986/594 (N.I. 3)
(**b**) S.R. 1991 No. 508

(3) Where in pursuance of an award a student is in receipt of a grant in respect of maintenance under regulation 12(1)(*b*) of the Students Awards Regulations (Northern Ireland) 1991 (payments by boards) there shall be excluded from his grant income a sum equal to the amount specified in paragraph 7(4) of Schedule 7 to those regulations (requirements) being the amount to be disregarded in respect of travel costs in the particular circumstances of his case.

Relationship with amounts to be disregarded under Schedule 3

41. No part of a student's grant income shall be disregarded under paragraph 12 of Schedule 3 (sums to be disregarded in the determination of income other than earnings).

Other amounts to be disregarded

42. For the purposes of ascertaining income other than grant income, any amounts intended for any expenditure specified in regulation 40(2) (determination of grant income), necessary as a result of his attendance on the course shall be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the payments on like expenditure excluded under regulation 40(2).

Treatment of student loans

43.—(1) A loan which is made to a student pursuant to arrangements made under Article 3 of the Education (Student Loans) (Northern Ireland) Order 1990(**a**) or section 1 of the Education (Student Loans) Act 1990(**b**) shall be treated as income.

(2) Any loan for which a student is eligible under the arrangements mentioned in paragraph (1) but which has not been acquired by him shall be treated as possessed by him and paragraph (1) shall apply accordingly; and for the purposes of this paragraph the loan for which a student is eligible is the maximum amount payable to him under those arrangements.

Disregard of contribution

44. Where the relevant person or his partner is a student and the income of one is taken into account for the purposes of assessing an allowance paid to the student, an amount equal to the allowance paid shall be disregarded for the purposes of determining the income of the one paying that allowance.

Sealed with the Official Seal of the Department of the Environment on 25th September 1992.

(L.S.) *J. McCormick*
Assistant Secretary

(**a**) S.I. 1990/1506 (N.I. 11)
(**b**) 1990 c. 6

The Department of Finance and Personal hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 25th September 1992.

(L.S.) *J. H. Caldwell*
Assistant Secretary

SCHEDULE 1 Regulations 12 and 13

Applicable Amounts

PART I Regulations 12(*a*) and (*b*) and 13(*a*) to (*c*)

PERSONAL ALLOWANCES

1. The amounts specified in column 2 of the table below in respect of each person or couple specified in column 1 shall be the amounts determined for the purposes of regulations 12(*a*) (applicable amounts generally) and 13(*a*) and (*b*) (applicable amounts in the case of polygamous marriages)—

Column 1 *Person or couple*	Column 2 *Amount*
(1) Single person aged—	
(*a*) less than 25;	(1) (*a*) £33·60;
(*b*) not less than 25.	(*b*) £42·45.
(2) Lone parent aged—	
(*a*) less than 18;	(2) (*a*) £33·60;
(*b*) not less than 18.	(*b*) £42·45.
(3) Couple—	
(*a*) where both members are aged less than 18;	(3) (*a*) £50·60;
(a) where at least one member is aged not less than 18.	(*b*) £66·60.

2. The amounts specified in column 2 of the table below in respect of each person specified in column 1 shall be the amounts determined for the purposes of regulations 12(*b*) and 13(*c*)—

Column 1 *Child or Young Person*	Column 2 *Amount*
Person aged—	
(*a*) less than 11	(*a*) £14·55;
(*b*) not less than 11 but less than 16;	(*b*) £21·40;
(*c*) not less than 16 but less than 18;	(*c*) £25·55;
(*d*) not less than 18.	(*d*) £33·60.

PART II Regulations 12(*c*) and 13(*d*)

FAMILY PREMIUM

3. The amount for the purposes of regulations 12(*c*) and 13(*d*) in respect of a family of which at least one member is a child or young person shall be £9·30.

PREMIUMS

4. Except as provided in paragraph 5, the premiums specified in Part IV shall for the purposes of regulations 12(*d*) and 13(*e*) be applicable to a relevant person who satisfies the condition specified in paragraphs 7 to 15 in respect of that premium.

5. Subject to paragraph 6, where a relevant person satisfies the condition in this Part in respect of more than one premium, only one premium shall be applicable to him and, if they are different amounts, the higher or highest amount shall apply.

6.—(1) The severe disability premium to which paragraph 13 applies may be applicable in addition to any other premium which may apply under this Schedule.

(2) The disabled child premium and the carer premium to which paragraphs 14 and 15 respectively apply may be applicable in addition to any other premium which may apply under this Schedule.

Lone parent premium

7. The condition is that the relevant person is a lone parent.

Pensioner premium for persons under 75

8. The condition is that the relevant person—

(*a*) is a single person or lone parent aged not less than 60 but less than 75; or

(*b*) has a partner and is, or his partner is, aged not less than 60 but less than 75.

Pensioner premium for persons 75 and over

9. The condition is that the relevant person—

(*a*) is a single person or lone parent aged not less than 75 but less than 80; or

(*b*) has a partner and is, or his partner is, aged not less than 75 but less than 80.

Higher pensioner premium

10.—(1) Where the relevant person is a single person or a lone parent, the condition is that—

(*a*) he is aged not less than 80; or

(*b*) he is aged less than 80 but not less than 60, and the additional condition specified in paragraph 12(1)(*a*) is satisfied.

(2) Where the relevant person has a partner, the condition is that—

(*a*) he or his partner is aged not less than 80; or

(*b*) he or his partner is aged less than 80 but not less than 60 and the additional condition specified in paragraph 12(1)(*a*) is satisfied.

Disability premium

11. The condition is that—

(*a*) where the relevant person is a single person or a lone parent, he is aged less than 60 and the additional condition specified in paragraph 12 is satisfied; or

(*b*) where the relevant person has a partner, either—

(i) the relevant person is aged less than 60 and the additional condition specified in paragraph 12(1)(*a*) or (*b*) is satisfied by him, or

(ii) his partner is aged less than 60 and the additional condition specified in paragraph 12(1)(*a*) or (*b*) is satisfied by his partner.

Additional condition for the higher pensioner and disability premiums

12.—(1) Subject to sub-paragraph (2) and paragraphs 16 and 17, the additional condition referred to in paragraphs 10 and 11 is that either—

(*a*) the relevant person or, as the case may be, his partner—

(i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, disability working allowance, mobility supplement, an invalidity pension under section 33 of the Contributions and Benefits Act or severe disablement allowance under section 68 of that Act but in the case of invalidity pension or severe disablement allowance only where it is paid in respect of him, or

(ii) was in receipt of invalidity pension under section 33 of the Contributions and Benefits Act when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and, if the invalidity pension was payable to his partner, the partner is still a member of the family, or

(iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the Contributions and Benefits Act, or

(iv) is provided by the Department of Health and Social Services with an invalid carriage or other vehicle under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972(**a**) or receives payments by way of grant from the Department of Health and Social Services under Article 30(3) of that Order, or

(v) has been certified as blind and in consequence is registered as blind in a register maintained by or on behalf of a Health and Social Services Board; or

(*b*) the circumstances of the relevant person or of his partner fall, and have fallen, in respect of a continuous period of not less than 28 weeks, within sub-paragraph (5) or, if either was in Great Britain for the whole or part of that period, within one or more of the comparable Great Britain provisions.

(2) For the purposes of sub-paragraph 1(*a*)(v), a person who has ceased to be registered as blind on regaining his eyesight shall nevertheless be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(3) For the purposes of sub-paragraph (1)(*b*), once the higher pensioner premium or the disability premium is applicable to a person by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable for work for the purposes of the provisions specified in that provision he shall, on again becoming so incapable of work, immediately thereafter be treated as satisfying the condition in sub-paragraph (1)(*b*).

(4) For the purposes of sub-paragraph (1)(*b*), once the disability premium is applicable to a person by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under sections 2 and

(a) S.I. 1972/1265 (N.I. 14)

3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945(**a**) or section 3 of the Employment and Training Act (Northern Ireland) 1950(**b**) or for any period during which he is in receipt of a training allowance.

(5) For the purposes of sub-paragraph (1)(*b*) the circumstances of a person fall within this sub-paragraph if—

(*a*) he provides evidence of incapacity in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(**c**) (evidence of incapacity for work) in support of a claim for sickness benefit, invalidity pension or severe disablement allowance within the meaning of section 31, 33 or 68 of the Contributions and Benefits Act, provided that an adjudication officer has not determined he is not incapable of work, or

(*b*) he is in receipt of statutory sick pay within the meaning of Part XI of the Contributions and Benefits Act.

Severe disability premium

13.—(1) Subject to paragraphs 16 and 17, the condition is that the relevant person is a severely disabled person.

(2) For the purposes of sub-paragraph (1), a relevant person shall be treated as a severely disabled person if, and only if—

(*a*) in the case of a single person or lone parent—

(i) he is in receipt of attendance allowance or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 72 of the Contributions and Benefits Act, and

(ii) subject to sub-paragraph (3), he has no non-dependants aged 18 or over residing with him, and

(iii) an invalid care allowance under section 70 of the Contributions and Benefits Act is not in payment to anyone in respect of caring for him;

(*b*) in the case of a relevant person who has a partner—

(i) the relevant person is in receipt of attendance allowance or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 72 of the Contributions and Benefits Act, and

(ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance, and

(iii) subject to sub-paragraph (3), the relevant person has no non-dependants aged 18 or over residing with him, and either an invalid care allowance is payable to someone in respect of caring for only one of a couple or, in the case of a polygamous marriage for one or more but not all the partners of the marriage, or else such an allowance is not in payment to anyone in respect of caring for either member of a couple or any partner of a polygamous marriage.

(3) For the purposes of sub-paragraphs (2)(*a*)(ii) and (2)(*b*)(iii) no account shall be taken of either—

(**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**) S.I. 1950 c. 29 (N.I.); section 3 was amended by Article 35 and Schedule 4 to the Industrial Training (Northern Ireland) Order 1984 (S.I. 1984/1159) (N.I. 9)

(**c**) S.R. 1976 No. 175; relevant amending regulations are S.R. 1982 No. 153 and S.R. 1991 No. 78

(*a*) a person receiving attendance allowance or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 72 of the Contributions and Benefits Act, or

(*b*) a boarder.

Disabled child premium

14.—(1) Subject to paragraphs 16 and 17, the condition is that a child or young person for whom the relevant person or a partner of his is responsible and who is a member of the relevant person's household—

(*a*) has no capital or capital which, if determined in accordance with Part IV in like manner as for the relevant person except where otherwise provided, would not exceed £5,000; and

(*b*) is in receipt of disability living allowance or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or

(*c*) is blind or treated as blind within the meaning of paragraph 12(1)(*a*)(v) or (2).

(2) In paragraph (1), "patient" means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(**a**).

Carer premium

15.—(1) Subject to paragraphs 16 and 17, the condition is that the relevant person or his partner is, or both of them are, in receipt of invalid care allowance under section 70 of the Contributions and Benefits Act.

(2) If a relevant person or his partner, or both of them, would be in receipt of invalid care allowance but for the provisions of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(**b**), where—

(*a*) the claim for that allowance was made on or after October 1992, and

(*b*) the person or persons in respect of whose care the allowance has been claimed remains or remain in receipt of attendance allowance or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 72 of the Contributions and Benefits Act,

he or his partner, or both of them, as the case may be, shall be treated for the purposes of sub-paragraph (1) as being in receipt of invalid care allowance.

Persons in receipt of concessionary payments

16. For the purposes of determining whether a premium is applicable to a person under paragraphs 12 to 15, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.

Persons in receipt of benefit

17. For the purposes of this Part, a person shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.

(**a**) S.R. 1975 No. 109; the relevant amending regulations are S.R. 1987 No. 391

(**b**) S.R. 1979 No. 242; the relevant amending regulations are S.R. 1980 No. 451, S.R. 1983 No. 36 and S.R. 1984 No. 317

AMOUNTS OF PREMIUMS SPECIFIED IN PART III

Premium	*Amount*
18.—(1) Lone parent premium	(1) £10·60.
(2) Pensioner premium for persons aged under 75—	
(*a*) where the relevant person satisfies the condition in paragraph 8(*a*);	(2) (*a*) £16·70;
(*b*) where the relevant person satisfies the condition in paragraph 8(*b*).	(*b*) £25·35.
(3) Pensioner premium for persons aged 75 and over—	
(*a*) where the relevant person satisfies the condition in paragraph 9(*a*);	(3) (*a*) £18·65;
(*b*) where the relevant person satisfies the condition in paragraph 9(*b*).	(*b*) £28·00.
(4) Higher pensioner premium—	
(*a*) where the relevant person satisfies the condition in paragraph 10(1)(*a*) or (*b*);	(4) (*a*) £22·75;
(*b*) where the relevant person satisfies the condition in paragraph 10(2)(*a*) or (*b*).	(*b*) £32·55.
(5) Disability premium—	
(*a*) where the relevant person satisfies the condition in paragraph 11(*a*);	(5) (*a*) £17·80;
(*b*) where the relevant person satisfies the condition in paragraph 11(*b*).	(*b*) £25·55.
(6) Severe disability premium—	
(*a*) where the relevant person satisfies the condition in paragraph 13(2)(*a*);	(6) (*a*) £32·55.
(*b*) where the relevant person satisfies the condition in paragraph 13(2)(*b*)—	
(i) in a case where there is someone in receipt of an invalid care allowance;	(*b*) (i) £32·55;
(ii) in a case where there is no-one in receipt of such an allowance.	(ii) £65·10.
(7) Disabled child premium	(7) £17·80 in respect of each child or young person in respect of whom the condition specified in paragraph 14 is satisfied.
(8) Carer Premium	(8) £11·55 in respect of each person who satisfies the condition specified in paragraph 15.

SCHEDULE 2 Regulations 22(2), 24(2) and 29(3)

Sums to be disregarded in the determination of earnings

1. In the case of a relevant person who has been engaged in remunerative work as an employed earner or, had the employment been in Northern Ireland, would have been so engaged—

(*a*) any earnings paid or due to be paid in respect of that employment which has been terminated—

(i) by way of retirement but only if on retirement he is entitled to a retirement pension under the Contributions and Benefits Act, or would be so entitled if he satisfied the contribution conditions;

(ii) otherwise than by retirement, except earnings to which regulation 21(1)(*b*) to (*e*) and (*g*) to (*j*) (earnings of employed earners) applies;

(*b*) any earnings paid or due to be paid in respect of that employment which has been interrupted except earnings to which regulation 21(1)(*d*) and (*e*) applies.

2. In the case of a relevant person who has been engaged in part-time employment as an employed earner or had the employment been in Northern Ireland would have been so engaged, any earnings paid or due to be paid in respect of that employment which has been terminated or interrupted except earnings to which regulation 21(1)(*e*) applies.

3.—(1) In a case to which this paragraph applies, £15; but notwithstanding regulation 15 (determination of income and capital of members of a relevant person's family and of a polygamous marriage) if this paragraph applies to a relevant person it shall not apply to his partner except where, and to the extent that, the earnings of the relevant person which are to be disregarded under this paragraph are less than £15.

(2) This paragraph applies where the relevant person's applicable amount includes an amount by way of the disability premium or severe disability premium under Schedule 1 (applicable amounts).

(3) This paragraph applies where—

(*a*) the relevant person is a member of a couple and his applicable amount would, but for the higher pensioner premium under Schedule 1 being applicable, include an amount by way of the disability premium under that Schedule; and

(*b*) he or his partner is under the age of 60 and at least one is engaged in employment.

(4) This paragraph applies where—

(*a*) the relevant person's applicable amount includes an amount by way of the higher pensioner premium under Schedule 1; and

(*b*) the relevant person or, if he is a member of a couple, either he or his partner has attained the age of 60; and

(*c*) immediately before attaining that age he or, as the case may be, he or his partner was engaged in employment and the relevant person would have been entitled by virtue of sub-paragraph (2) to a disregard of £15; and

(*d*) he or, if he is a member of a couple, he or his partner has continued in employment.

(5) This paragraph applies where—

(*a*) the relevant person is a member of a couple and his applicable amount would

include an amount by way of the disability premium under Schedule 1, but for—

(i) the pensioner premium for persons aged 75 and over under that Schedule being applicable, or

(ii) the higher pensioner premium under that Schedule being applicable; and

(*b*) he or his partner has attained the age of 75 but is under the age of 80 and the other is under the age of 60 and at least one member of the couple is engaged in employment.

(6) This paragraph applies where—

(*a*) the relevant person is a member of a couple and he or his partner has attained the age of 75 but is under the age of 80 and the other has attained the age of 60; and

(*b*) immediately before the younger member attained that age either member was engaged in employment and the relevant person would have been entitled by virtue of sub-paragraph (5) to a disregard of £15; and

(*c*) either he or his partner has continued in employment.

(7) For the purposes of this paragraph, no account shall be taken of any period not exceeding 8 consecutive weeks occurring on or after the date on which the relevant person or, if he is a member of a couple, he or his partner attained the age of 60 during which either or both ceased to be engaged in employment.

4. If an amount by way of a lone parent premium under Schedule 1 is or, but for any pensioner premium, higher pensioner premium or disability premium being applicable to him, would be included in the determination of the relevant person's applicable amount, £25.

5. In a case where paragraph 3 does not apply to the relevant person and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding regulation 15 (determination of income and capital of members of relevant person's family and of a polygamous marriage), if this paragraph applies to a relevant person it shall not apply to his partner except where, and to the extent that, the earnings of the relevant person which are to be disregarded under this paragraph are less than £10.

6.—(1) In a case to which neither paragraph 3 nor 4 applies to the relevant person, £15 of earnings derived from one or more employments as—

(*a*) a part-time fireman in a fire brigade maintained in pursuance of the Fire Services (Northern Ireland) Order 1984(**a**);

(*b*) an auxiliary coastguard in respect of coast rescue activities;

(*c*) a person engaged part-time in the manning or launching of a life-boat;

(*d*) a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979(**b**);

(*e*) a person in the army whose service is restricted to part-time service in Northern Ireland pursuant to section 1 of the Army Act 1992(**c**), regulations made under section 2 of the Armed Forces Act 1966(**d**), or the terms of his commission;

(**a**) S.I. 1984/1821 (N.I. 11)
(**b**) S.I. 1979/591; the relevant amending instrument is S.I. 1980/1975
(**c**) 1992 c. 9
(**d**) 1966 c. 45; section 2 was amended by section 2 of the Army Act 1992

(*f*) a part-time member of the Royal Ulster Constabulary Reserve appointed under section 9(1) of the Police Act (Northern Ireland) 1970(**a**),

but, notwithstanding regulation 15 (determination of income and capital of members of relevant person's family and of a polygamous marriage), if this paragraph applies to a relevant person it shall not apply to his partner except to the extent specified in sub-paragraph (2).

(2) If the relevant person's partner is engaged in employment—

(*a*) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the relevant person's earnings disregarded under this paragraph exceed £15;

(*b*) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not, in aggregate with the applicant's earnings disregarded under this paragraph, exceed £15.

7. Where the relevant person is engaged in one or more employments specified in paragraph 6(1), but his earnings derived from such employments are less than £15 in any week and he is also engaged in any other employment so much of his earnings from that other employment, up to £5 if he is a single person, or up to £10 if he has a partner, as would not, in aggregate with the amount of his earnings disregarded under paragraph 6, exceed £15.

8. In a case to which none of the paragraphs 3 to 7 applies, £5.

9. Any amount or the balance of any amount which would fall to be disregarded under paragraph 18, 19 or 28 of Schedule 3 had the relevant person's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.

10. Where a relevant person is in receipt of income support, his earnings.

11. Any earnings derived from employment which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.

12. Where a payment of earnings is made in a currency other than sterling, any banking charges or commission payable in converting that payment into sterling.

13. Any earnings of a child or young person except earnings to which paragraph 14 applies.

14. In the case of earnings of a young person who has ceased full-time education for the purposes of section 138 of the Contributions and Benefits Act (meaning of child) and who is engaged in remunerative work—

(*a*) if an amount by way of a disabled child premium under Schedule 1 is included in the determination of his applicable amount, £15;

(*b*) in any other case, £5.

15. In this Schedule "part-time employment" means employment in which the person is engaged on average for less than 16 hours a week.

(**a**) 1970 c. 9 (N.I.)

SCHEDULE 3 Regulation 26(2)

Sums to be disregarded in the determination of income other than earnings

1. Any amount attributable to tax on income which is to be taken into account under regulation 26 (determination of income other than earnings).

2. Any payment in respect of any expenses incurred by a relevant person who is—

(*a*) engaged by a charitable or voluntary organisation, or

(*b*) a volunteer,

if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 28(4) (notional income).

3. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.

4. Where a relevant person is in receipt of income support, the whole of his income.

5. Any mobility allowance under section 37A of the Social Security (Northern Ireland) Act 1975(**a**) or any disability living allowance.

6. Any concessionary payment made to compensate for the non-payment of—

(*a*) any payment specified in paragraph 5 or 8;

(*b*) income support.

7. Any mobility supplement under Article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(**b**) (including such a supplement by virtue of any other scheme or order) or under Article 25A of the Personal Injuries (Civilians) Scheme 1983(**c**) or any payment intended to compensate for the non-payment of such a supplement.

8. Any attendance allowance.

9. Any payment to the relevant person as holder of the Victoria Cross or of the George cross or any analogous payment.

10. Any sum in respect of a course of study attended by a child or young person payable by virtue of Regulations made under Article 50 or 51 of the Education and Libraries (Northern Ireland) Order 1986(**d**) (provisions to assist persons to take advantage of educational facilities).

(**a**) 1975 c. 15; section 37A was inserted by Article 24(1) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) and amended by Article 4 of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)), Article 72(1) to (3) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)) and Article 10 of the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)) and is repealed with effect from 6th April 1992 by Article 4(3) of, and Schedule 4 to, the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991 (S.I. 1991/1712 (N.I. 17))

(**b**) S.I. 1983/883; Article 26A was inserted by S.I. 1983/1116 and amended by S.I. 1983/1521, S.I. 1986/592, S.I. 1990/1308 and S.I. 1991/766

(**c**) S.I. 1983/686; Article 25A was inserted by S.I. 1983/1164 and amended by S.I. 1983/1540, S.I. 1986/628 and S.I. 1991/708

(**d**) S.I. 1986/594 (N.I. 3)

11. In the case of a relevant person participating in arrangements for training made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(**a**) or attending a course at an employment rehabilitation centre established under that section—

(*a*) any travelling expenses reimbursed to the relevant person;

(*b*) if he receives an allowance under section 1(1A)(*d*) of that Act, such amount, if any, of that allowance expressed to be a lodging allowance, but only in respect of the dwelling he normally occupies as his home;

(*c*) any training premium under that Act,

but this paragraph, except insofar as it relates to a payment under sub-paragraph (*a*), (*b*) or (*c*), does not apply to any part of any allowance under section 1(1A)(*d*) of that Act.

12.—(1) Except where sub-paragraph (2) applies and subject to sub-paragraph (3) and paragraphs 34 and 35, £10 of any charitable payment or of any voluntary payment made or due to be made at regular intervals.

(2) Subject to sub-paragraph (3) and paragraph 35, any charitable payment or voluntary payment made or due to be made at regular intervals which is intended and used for an item other than food, ordinary clothing or footwear, household fuel, eligible rates or rent to which regulation 9 or 10 of the Housing Benefit (General) Regulations (Northern Ireland) 1987(**b**) refers, or both, of a single relevant person or, as the case may be, of the relevant person or any other member of his family.

(3) Sub-paragraphs (1) and (2) shall not apply to a maintenanace payment which is made or due to be made by—

(*a*) a former partner of the relevant person, or a former partner of any member of the relevant person's family; or

(*b*) the parent of a child or young person where that child or young person is a member of the relevant person's family.

(4) For the purposes of sub-paragraph (1) where a number of charitable or voluntary payments fall to be taken into account in any one week they shall be treated as though they were one such payment.

(5) For the purposes of sub-paragraph (2) the expression "ordinary clothing or footwear" has the same meaning as in regulation 28(8).

13. Any war disablement pension or war widow's pension or a payment made to compensate for the non-payment of such a pension.

14. Any pension paid by the Government of a country outside the United Kingdom and which either—

(*a*) is analogous to a war disablement pension;

(*b*) is analogous to a war widow's pension.

15. Subject to paragraph 34, £10 of any of the following, namely

(*a*) a pension paid under any special provision made by the law of the Federal Republic of Germany or any part of it, or of the Republic of Austria, to victims of National Socialist persecution;

(*b*) loan treated as income by virtue of regulation 43.

(**a**) 1950 c. 29 (N.I.); section 1(1) and (1A) were substituted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

(**b**) S.R. 1987 No. 461; regulation 10 was amended by regulation 4 of S.R. 1988 No. 424

16.—(1) Any income derived from capital to which the relevant person is, or is treated under regulation 36 (capital jointly held) as, beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 1, 2, 3, 5, 8, 14, 25 or 26 of Schedule 4.

(2) Income derived from capital disregarded under paragraphs 3(*a*), 5, 25 or 26 of Schedule 4 but only to the extent of any mortgage payments or payment of rates made in respect of the dwelling or buildings in the period during which that income accrued.

17. Where a relevant person receives income under an annuity purchased with a loan which satisfies the following conditions—

(*a*) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of 2 or more persons (in this paragraph referred to as "the annuitants") who include the person to whom the loan was made;

(*b*) that the interest on the loan is payable by the person to whom it was made or by one of the annuitants;

(*c*) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;

(*d*) that the loan was secured on a dwelling in Northern Ireland and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling; and

(*e*) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid,

the amount, calculated on a weekly basis, equal to—

(i) where, or in so far as, section 369 of the Income and Corporation Taxes Act 1988(**a**) (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the basic rate for the year of assessment in which the payment of interest becomes due,

(ii) in any other case, the interest which is payable on the loan without deduction of such a sum.

18. Where the relevant person makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating under regulations made in exercise of the powers conferred by Articles 50 and 51 of the Education and Libraries (Northern Ireland) Order 1986, that student's award under those Articles, an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

19.—(1) Where the relevant person is the parent of a student aged under 25 in advanced education who either—

(*a*) is not in receipt of any award or grant in respect of that education; or

(*b*) is in receipt of an award under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986 (awards made at the discretion of boards),

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(**a**) 1988 c. 1

and the relevant person makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 18, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount shall be equal to—

(*a*) the weekly amount of the payments; or

(*b*) the amount by way of a personal allowance for a single person under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(*b*),

whichever is less.

20. Any payment made to the relevant person by a child or young person or a non-dependant.

21. Where the relevant person occupies a dwelling as his home which is also occupied by a person other than one to whom paragraph 20 refers and that person is contractually liable to make payments in respect of his occupation of the dwelling to the relevant person—

(*a*) £4 of any payment made by that person; and

(*b*) a further £8·60, where that payment is inclusive of an amount for heating.

22. Any income in kind.

23. Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.

24.—(1) Any payment made to the relevant person in respect of a child or young person who is a member of his family—

(*a*) in accordance with a scheme approved by the Department of Health and Social Services under Article 59(4) of the Adoption (Northern Ireland) Order 1987(**a**) (schemes for payments of allowances to adopters);

(*b*) in accordance with regulations made by the Secretary of State under section 57(A) of the Adoption Act 1976(**b**) or a scheme approved by the Secretary of State under section 51(5) of the Adoption (Scotland) Act 1978(**c**) (schemes for payments of allowances to adopters);

(*c*) which is a payment made by a local authority in pursuance of paragraph 15(1) of Schedule 1 to the Children Act 1989(**d**) (local authority contribution to child's maintenance),

to the extent specified in sub-paragraph (2).

(2) In the case of a child or young person—

(*a*) to whom regulation 29(2) applies (capital in excess of £5,000), the whole payment;

(*b*) to whom that regulation does not apply, so much of the weekly amount of the payment as exceeds the amount included under Schedule 1 in the determination of the relevant person's applicable amount for that child or

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(**a**) S.I. 1987/2203 (N.I. 22)
(**b**) 1976 c. 36; section 57A was inserted by paragraph 25 of Schedule 10 to the Children Act 1989 c. 41
(**c**) 1978 c. 28
(**d**) 1989 c. 41

young person by way of the personal allowance and disabled child premium, if any.

25. Any payment made by a Health and Social Services Board or training school within the meaning of section 137 of the Children and Young Persons Act (Northern Ireland) 1968(**a**) to the relevant person with whom a person is boarded out by virtue of arrangements made under section 114(1)(*a*) of that Act or by a voluntary organisation under section 129(1) of that Act.

26. Any payment made by a Health and Social Services Board, training school or voluntary organisation to the relevant person in respect of a person who is not normally a member of the relevant person's household but is temporarily in his care.

27. Any payment made by a Health and Social Services Board under section 122, 123 or 164 of the Children and Young Persons Act (Northern Ireland) 1968(**b**) (Health and Social Services Boards' duty to promote the welfare of children or powers to grant financial assistance to persons in, or formerly in, their care).

28. An amount equal to any maintenance payment made by the relevant person to his former partner or in respect of his children other than children who are members of his household.

29. Any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments on a loan for the purchase of the dwelling which the relevant person occupies as his only or main residence and secured on that dwelling to the extent that it does not exceed the amount calculated, on a weekly basis, of that repayment.

30. Any payment of income which by virtue of regulation 32 (income treated as capital) is to be treated as capital.

31. Any social fund payment.

32. Any payment under section 144 of the Contributions and Benefits Act (entitlement of pensioners to Christmas bonus).

33. Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

34. The total of a relevant person's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under regulation 15(3) (determination of income and capital of members of relevant person's family and of a polygamous marriage) to be disregarded under paragraphs 12 and 15 shall in no case exceed £10 per week.

35. Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (''the Trusts''), the Fund or the Independent Living Fund.

(**a**) 1968 c. 34 (N.I.); section 137 was amended by Schedule 18 to the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)

(**b**) Sections 122 and 164 were amended by Schedule 18 to the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)); by virtue of Article 17(1)(*c*) of that Order the functions under sections 122, 123 and 164 are exercised by Health and Social Services Boards

(2) Any payment by or on behalf of a person who suffered or is suffering from haemophilia or who was or is a qualifying person, which derives from a payment made under any of the Trusts and which is made to or for the benefit of—

(*a*) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced;

(*b*) any child who is a member of that person's family or who was such a member and who is a member of the relevant person's family; or

(*c*) any young person who is a member of that person's family or who was such a member and who is a member of the relevant person's family.

(3) Any payment by or on behalf of the partner or former partner of a person who suffered or is suffering from haemophilia or who was or is a qualifying person, provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, which derives from a payment made under any of the Trusts and which is made to or for the benefit of—

(*a*) the person who is suffering from haemophilia or who is a qualifying person;

(*b*) any child who is a member of that person's family or who was such a member and who is a member of the relevant person's family; or

(*c*) any young person who is a member of that person's family or who was such a member and who is a member of the relevant person's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under any of the Trusts where—

(*a*) that person has no partner or former partner from whom he is not estranged or divorced, nor any child or young person who is or had been a member of that person's family; and

(*b*) the payment is made either—

(i) to that person's parent or step-parent, or

(ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of 2 years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under any of the Trusts where—

(*a*) that person at the date of his death (''the relevant date'') had no partner or former partner from whom he was not estranged or divorced, nor any child or young person who was or had been a member of his family; and

(*b*) the payment is made either—

(i) to that person's parent or step-parent, or

(ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of 2 years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund.

36. Any housing benefit and any housing benefit in the form of a community charge rebate.

37. Any payment made under arrangements made by the Department of Health and Social Services to compensate for the loss (in whole or in part) of entitlement to housing benefit.

38. Any payment made under arrangements made by the Department of Health and Social Services to compensate for the loss of housing benefit supplement under regulation 19A of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983(**a**).

39. Any resettlement benefit which is paid to the relevant person by virtue of regulation 3 of the Social Security (Hospital In-Patients) (Amendment No. 2) Regulations (Northern Ireland) 1987(**b**).

40. Any community charge benefit.

41. Any payment in consequence of a reduction of a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988(**c**) or section 9A of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(**d**) (reduction of liability for personal community charge).

42. Where the relevant person occupies a dwelling as his only or main residence and that dwelling is also occupied by a boarder who makes payments to the relevant person in respect of his occupation—

(*a*) £20·00 of any payment made by that boarder; and

(*b*) if the payment exceeds £20·00, 50 per cent. of the excess.

43. Any special war widows payment made under—

(*a*) the Naval and Marine Pay and Pensions (Special War Widows Payment) Order 1990 made under section 3 of the Naval and Marine Pay and Pensions Act 1865(**e**);

(*b*) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977(**f**);

(*c*) the Queen's Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917(**g**);

(*d*) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980(**h**);

(*e*) the Orders dated 19th February 1990 amending Orders made on 12th December 1980 concerning the Ulster Defence Regiment made in each case under section 140 of the Reserve Forces Act 1980(**i**);

(a) S.R. 1983 No. 61; the relevant amending regulations are S.R. 1983 No. 291, S.R. 1984 No. 79 and S.R. 1986 No. 236

(b) S.R. 1987 No. 391

(c) 1988 c. 41; section 13A was inserted by paragraph 5 of Schedule 5 to the Local Government and Housing Act 1989 c. 42

(d) 1987 c. 47; section 9A was inserted by section 143 of the Local Government and Housing Act 1989

(e) 1865 c. 73. Copies of the Order are available from: Ministry of Defence, NPC2, Room 317, Archway Block South, Old Admiralty Building, Spring Gardens, London SW1A 2BE

(f) Army Code No. 13045 published by HMSO

(g) 1917 c. 51. Queen's Regulations for the Royal Air Force are available from HMSO

(h) 1980 c. 9. Copies of the Regulations are available from: Ministry of Defence at the address given in footnote (e) above

(i) Army Code No. 60589 published by HMSO

and any analogous payments made by the Secretary of State for Defence to any person who is not a person entitled under the provisions mentioned in sub-paragraphs (*a*) to (*e*) of this paragraph.

44. Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the Contributions and Benefits Act.

45.—(1) Any payment or repayment made under regulation 3, 5 or 8 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989(**a**) (entitlement to full remission and payment, persons entitled to remission in part or payment in part, or repayment).

(2) Any payment or repayment made by the Department of Health and Social Services which is analogous to a payment or repayment mentioned in sub-paragraph (1).

46. Any payment made under regulation 8, 9, 10 or 12 of the Welfare Foods Regulations (Northern Ireland) 1988(**b**) (failure to receive milk tokens, inability to purchase dried milk at a reduced price, inability to obtain free vitamins or absence of beneficiary for less than a week).

47. Any payment made under a scheme established by the Northern Ireland Office to assist relatives and other persons to visit persons in custody.

48.—(1) Where a relevant person's applicable amount includes an amount by way of the family premium, £15 of any maintenance payment, whether under a court order or not, which is made or due to be made by—

(*a*) the relevant person's former partner, or the relevant person's partner's former partner; or

(*b*) the parent of a child or young person where that child or young person is a member of the relevant person's family except where that parent is the relevant person or the relevant person's partner.

(2) For the purpose of sub-paragraph (1), where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

49. Any payment made by the Department of Health and Social Services to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with and including that day.

50. Any payment (other than a training allowance) made, whether by the Department of Economic Development or any other person, under the Disabled Persons (Employment) Act (Northern Ireland) 1945(**c**) or in accordance with arrangements made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950 to assist disabled persons to retain employment despite their disability.

51. Any payment made under the legislation of, or under any scheme operating in, the Republic of Ireland which is analogous to any income to which the preceding paragraphs relate.

(**a**) S.R. 1989 No. 348; the relevant amending regulations are S.R. 1990 No. 313 and S.R. 1991 No. 224
(**b**) S.R. 1988 No. 137; the relevant amending regulations are S.R. 1991 No. 81
(**c**) 1945 c. 6 (N.I.)

SCHEDULE 4 Regulation 30(2)

Capital to be disregarded

1. The dwelling or building to which the application relates.

2. Any one dwelling normally occupied by the relevant person as his only or main residence including any premises not so occupied which it is impracticable or unreasonable to sell separately, but, notwithstanding regulation 15 (determination of income and capital of members of relevant person's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

3. Any dwelling which the relevant person intends to occupy as his only or main residence and—

(*a*) which he acquires for occupation, and intends to occupy as such residence within 26 weeks from the date of acquisition or such longer period as is reasonable in the circumstances to enable the relevant person to obtain possession and commence occupation, or

(*b*) in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings, whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation, or

(*c*) to which essential repairs or alterations are required in order to render it fit for such occupation, for such period as is necessary to enable those repairs or alterations to be carried out,

but, notwithstanding regulation 15 (determination of income and capital of members of relevant person's family and of a polygamous marriage) only one dwelling shall be disregarded under this paragraph.

4.—(1) Subject to sub-paragraph (2), any sum directly attributable to the proceeds of sale of any dwelling formerly occupied by the relevant person as his only or main residence to the extent to which it is to be used for the purchase of either—

(*a*) the dwelling or building to which the application relates, or

(*b*) any dwelling, other than that to which the application relates, which is intended for such occupation within 26 weeks from the date of sale or such longer period as is reasonable in the circumstances to enable the relevant person to complete the purchase.

(2) (*a*) Sub-paragraph (1) shall not apply where a dwelling is disregarded under paragraph 26;

(*b*) sub-paragraph (1)(*b*) shall not apply where a dwelling is disregarded under paragraph 3.

5. Any dwelling occupied in whole or in part—

(*a*) by a partner, close relative, grandparent, grandchild, uncle, aunt, nephew or niece of a relevant person who is single or of any member of the family of the relevant person where that person is either aged 60 or over or incapacitated;

(*b*) by the former partner of the relevant person as his only or main residence; but this provision shall not apply where the former partner is a person from whom the relevant person is estranged or divorced.

6. Where a relevant person is in receipt of income support, the whole of his capital.

7. Any reversionary interest.

8.—(1) The assets of any business owned in whole or in part by the relevant person and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

(2) The assets of any business owned in whole or in part by the relevant person where—

(*a*) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but

(*b*) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business.

9.—(1) Any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of,—

(*a*) any payment specified in paragraph 5, 7 or 8 of Schedule 3;

(*b*) an income-related benefit or family income supplement under the Family Income Supplements Act (Northern Ireland) 1971(**a**), supplementary benefit under the Supplementary Benefits (Northern Ireland) Order 1977(**b**) or housing benefit under the Housing Benefits (Northern Ireland) Order 1983(**c**).

10.—(1) Subject to sub-paragraph (2), any sum—

(*a*) paid to the relevant person in consequence of damage to or loss of his only or main residence or any personal possession and intended for its repair or replacement; or

(*b*) acquired by the relevant person (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to his only or main residence,

which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to effect the repairs, replacement or improvement.

(2) A sum to which sub-paragraph 1(*b*) applies shall be disregarded under this paragraph to the extent only that it is not for carrying out works to which the application relates.

11. Any sum—

(*a*) deposited with a housing association as a condition of occupying the only or main residence;

(*b*) which was so deposited and which is to be used for the purchase of another dwelling being the only or main residence, for the period of 26 weeks or such

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(**a**) 1971 c. 8 (N.I.); repealed with effect from 11th April 1988 by Schedule 10 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

(**b**) S.I. 1977/2156 (N.I. 27); repealed in part with effect from 11th April 1988 by Schedule 10 to the Social Security (Northern Ireland) Order 1986

(**c**) S.I. 1983/1121 (N.I. 14); repealed with effect from 11th April 1988 by Schedule 10 to the Social Security (Northern Ireland) Order 1986

longer period as may be reasonable in the circumstances to enable the relevant person to complete the purchase.

12. Any personal possessions except those which have been acquired by the relevant person with the intention of reducing his capital in order to increase the amount of grant.

13. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

14.—(1) Subject to sub-paragraph (2), where the funds of a trust are derived from a payment made in consequence of any personal injury to the relevant person, the value of the trust fund and the value of the right to receive any payment under that trust.

(2) Any value to which sub-paragraph (1) applies shall be disregarded under this paragraph to the extent only that it does not represent funds or a payment which are for carrying out works to which the application relates.

15. The value of the right to receive any income under a life interest or from a life rent.

16. The value of the right to receive any income which is disregarded under paragraph 11 of Schedule 2 or paragraph 23 of Schedule 3.

17. The surrender value of any policy of life insurance.

18. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

19. Any payment made by a Health and Social Services Board under section 122, 123 or 164 of the Children and Young Persons Act (Northern Ireland) 1968 (Health and Social Services Boards' duty to promote the welfare of children or powers to grant financial assistance to persons in, or formerly in, their care).

20. Any social fund payment.

21. Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (mortgage interest payment under deduction of tax) on a payment of relevant loan interest for the purpose of acquiring an interest in the only or main residence or carrying out repairs or improvements to that residence.

22. Any capital which by virtue of regulation 27 or 43 (capital treated as income and treatment of student loans) is to be treated as income.

23. Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

24.—(1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (''the Trusts''), the Fund or the Independent Living Fund.

(2) Any payment by or on behalf of a person who suffered or is suffering from haemophilia or who was or is a qualifying person, which derives from a payment made under any of the Trusts and which is made to or for the benefit of—

(*a*) that person's partner or former partner from whom he is not, or where that person had died was not, estranged or divorced;

(*b*) any child who is a member of that person's family or who was such a member and who is a member of the relevant person's family; or

(*c*) any young person who is a member of that person's family or who was such a member and who is a member of the relevant person's family.

(3) Any payment by or on behalf of the partner or former partner of a person who suffered or is suffering from haemophilia or who was or is a qualifying person, provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, which derives from a payment made under any of the Trusts and which is made to or for the benefit of—

(*a*) the person who is suffering from haemophilia or who is a qualifying person;

(*b*) any child who is a member of that person's family or who was such a member and who is a member of the relevant person's family; or

(*c*) any young person who is a member of that person's family or who was such a member and who is a member of the relevant person's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under any of the Trusts where—

(*a*) that person has no partner or former partner from whom he is not estranged or divorced, nor any child or young person who is or had been a member of that person's family; and

(*b*) the payment is made either—

(i) to that person's parent or step-parent, or

(ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of 2 years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under any of the Trusts where—

(*a*) that person at the date of his death ("the relevant date") had no partner or former partner from whom he was not estranged or divorced, nor any child or young person who was or had been a member of his family; and

(*b*) the payment is made either—

(i) to that person's parent or step-parent, or

(ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of 2 years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund.

25.—(1) Where a relevant person has ceased to occupy what was formerly the dwelling occupied as the only or main residence following his estrangement or divorce from his former partner, that dwelling for a period of 26 weeks from the date

on which he ceased to occupy that dwelling, or where the dwelling is occupied by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph "dwelling" includes any premises not so occupied which it is impracticable or unreasonable to sell separately.

26. Any premises where the relevant person is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

27. Any payment made under arrangements made by the Department of Health and Social Services to compensate for the loss (in whole or in part) of entitlement to housing benefit.

28. Any payment made under arrangements made by the Department of Health and Social Services to compensate for the loss of housing benefit supplement under regulation 19A of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983.

29. The value of the right to receive an occupational or personal pension.

30. The value of the right to receive any rent.

31. Any payment in kind made by a charity or under the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust or the Fund.

32. Any payment not exceeding £200 made under section 1 of the Employment and Training Act (Northern Ireland) 1950(**a**) (general functions of Department of Economic Development as to employment and training for employment) as a training bonus to a person participating in an arrangement for training made under that section.

33. Any housing benefit, or housing benefit in the form of a community charge rebate.

34. Any community charge benefit.

35. Any payment in consequence of a reduction of a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988 or section 9A of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (reduction of liability for personal community charge).

36.—(1) Subject to sub-paragraph (2), any grant made in Great Britain to the relevant person in accordance with a scheme made under section 129 of the Housing Act 1988(**b**) or section 66 of the Housing (Scotland) Act 1988(**c**) (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—

(**a**) 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)) and by Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8)

(**b**) 1988 c. 50

(**c**) 1988 c. 43

(*a*) to purchase premises intended for occupation as his only or main residence; or

(*b*) to carry out repairs or alterations which are required to render premises fit for such occupation,

for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the relevant person to commence such occupation.

(2) A grant to which sub-paragraph (1) applies shall be disregarded under this paragraph to the extent only that it is not for carrying out works to which the application relates.

37. Any arrears of special war widows payment which is disregarded under paragraph 43 of Schedule 3 (sums to be disregarded in the determination of income other than earnings).

38.—(1) Any payment or repayment made under regulation 3, 5 or 8 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989 (entitlement to full remission and payment, persons entitled to remission in part or payment in part, or repayment).

(2) Any payment or repayment made by the Department of Health and Social Services which is analogous to a payment or repayment mentioned in sub-paragraph (1).

39. Any payment made under regulation 8, 9, 10 or 12 of the Welfare Foods Regulations (Northern Ireland) 1988 (failure to receive milk tokens, inability to purchase dried milk at a reduced price, inability to obtain free vitamins or absence of beneficiary for less than a week).

40. Any payment made under a scheme established by the Northern Ireland Office to assist relatives and other persons to visit persons in custody.

41. Any payment made by the Department of Health and Social Services to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with and including that day.

42. Any payment (other than a training allowance, or a training bonus paid under section 3(3) of the Employment and Training Act (Northern Ireland) 1950) made, whether by the Department of Economic Development or any other person, under the Disabled Persons (Employment) Act (Northern Ireland) 1945 or in accordance with arrangements made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950 to assist disabled persons to obtain or retain employment despite their disability.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

Article 47 of the Housing (Northern Ireland) Order 1992 provides, inter alia, that where an application to the Northern Ireland Housing Executive for a grant is accompanied by an owner-occupier certificate or a tenant's certificate (as defined in Article 44(2) and (3)), then, if the financial resources of the applicant exceed the applicable amount determined in accordance with regulations, the amount of the grant shall be reduced in accordance with those regulations.

These Regulations provide for reduction of the amount of renovation grant and disabled facilities grant which may be paid to such applicants.

Part I contains general provisions as to the citation, commencement and interpretation of the Regulations (regulations 1 to 5) and makes provision in regard to the circumstances in which a person is or is not to be treated as responsible for another person and in which a person is or is not to be treated as being a member of the same household as a relevant person (regulations 6 and 7) ie a person whose financial resources are to be taken into account in determining whether the amount of the grant is to be reduced and, if so, by how much. It also sets out what comprises the applicable amount and the amount to be taken to be the financial resources in respect of an application, by reference to which any reduction in the amount of grant is determined (regulations 8 and 9).

Part II specifies the method of assessing the amount by which a grant is to be reduced in various circumstances (regulations 10 and 11).

Part III and Schedule 1 provide for the determination of the applicable amount of a relevant person, and with respect to polygamous marriages (regulations 12 and 13).

Part IV (regulations 14 to 37) provides for the determination of the income and capital of a relevant person, the earnings of employed and self-employed earners and the treatment of income other than earnings (including notional income); sums to be disregarded are set out in Schedules 2 and 3. Determination of capital is dealt with in Chapter VI. Capital to be disregarded is set out in Schedule 4.

Part V provides for the treatment of students (regulations 38 to 44).