

1987 No. 1974

SOCIAL SECURITY

The Family Credit (Transitional) Regulations 1987

<i>Made</i> - - - -	<i>20th November 1987</i>
<i>Laid before Parliament</i>	<i>20th November 1987</i>
<i>Coming into Operation</i>	<i>1st January 1988</i>

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The Secretary of State for Social Services in exercise of powers conferred by sections 84(1) and 89(1) of the Social Security Act 1986(a) and of all other powers enabling him in that behalf, by this instrument, which contains only provisions consequential on sections 20 to 22, of that Act and Regulations made under those sections in their application to family credit and is made before the end of a period of 12 months from the commencement of those sections, makes the following regulations;

**Citation and commencement**

1. These Regulations may be cited as the Family Credit (Transitional) Regulations 1987 and shall come into force on 1st January 1988.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Social Security act 1986;

“appropriate office” means an office of the EDepartment of Social SecurityE;

Words in reg. 2(1) substituted by virtue of art. 3(4) of S.I. 1988/1843 as from 28.11.88.

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(a) 1986 c.50; section 84(1) is cited because of the meaning assigned to the word “regulations”.

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“Child” has the same meaning as in Part II of the Act(a);

“family” has the same meaning as in Part II of the Act;

“family income supplement” means benefit under the Family Income Supplements Act 1970(b);

“married or unmarried couple” has the same meaning as in Part II of the Act;

“renewal claim” means a claim for family income supplement which is so described in regulation 3(2) of the Family Income Supplements (General) Regulations 1980(c);

“young person” means a person aged 16 or over but under 19 who is receiving full-time education within section 2(1)(b) of the Child Benefit Act 1975(d).

(2) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation is a reference to the regulation bearing that number in these Regulations, and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

**Claims for family credit treated as made on 11th April 1988**

3.—(1) A written claim for family credit which is delivered or sent to an appropriate office on or after 1st March 1988 and received on or before 11th April 1988 shall be treated as made on 11th April 1988.

(2) Where family income supplement is payable to a person under an award for a period which includes 5th April 1988 and does not exceed 51 weeks it shall not be a condition of entitlement to family credit for a period beginning 11th April 1988 that the person makes a claim for such benefit and a claim, in such a case, for family credit shall be treated as made on 11th April 1988.

(3) Where a claim for family income supplement is made on or after 1st March 1988 but on or before 5th April 1988, but no award of that benefit is made, that claim shall, if the Secretary of state in his discretion so determines, be treated as including a claim for family credit made on 11th April 1988.

(4) Where, after 5th April 1988, a claim is made for family income supplement which is neither a renewal claim nor a claim in respect of a period before 11th April 1988 it shall be treated as a claim for family credit which shall be treated as made on 11th April 1988 if received at an appropriate office on or before that date but otherwise on the date on which it is received at such an office.

(5) In a case to which paragraph (2), (3) or (4) applies, where the claim for family income supplement was made by a married or unmarried couple, the claim for family credit shall be treated as made by the woman except that the claim shall be treated as made by the man if the Secretary of state is satisfied, in that case, that it would be reasonable so to treat it.

(6) A claim which is treated as made on 11th April 1988 by virtue of the provisions of this regulation may nevertheless be determined at any earlier date on which the conditions for treating it as made on 11th April 1988 are satisfied; and any such claim shall be determined in accordance with the Act and Regulations made under that Act as if those provisions were in force.

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(a) See section 20(11) for definitions.

(b) 1970 c.55.

(c) S.I. 1980/1437, amended by S.I. 1984/979.

(d) 1975 c.61. as amended by section 70 of the Social security act 1986 (c.50).

**Claims for family credit treated as including renewal claims for family income supplement**

4. Where a claim for family credit is treated as made on 11th April 1988 by virtue of regulation 3(1) (claim received before 11th April 1988) and a renewal claim could properly have been made on the date when the claim for family credit was received at an appropriate office, such a renewal claim shall be treated as so made.

**Claims for family income supplement to be determined first**

5. Where, before 11th April 1988, a person makes a claim for family credit and also claims family income supplement in respect of a period before 11th April 1988, the determination of the claim for family credit shall be postponed or, if it has already been determined, shall be of no effect until, and may be reviewed when, the claim for family income supplement has been determined.

**Determination of circumstances where family credit replaces, or arises out of a claim for, family income supplement**

6.—(1) Subject to paragraphs (2) and (3), in a case to which regulation 3(2) or (3) applies (family credit treated as claimed on 11th April 1988 where family income supplement awarded or claimed), the provisions of Sections 20(5) and 22(6)F of the Act (conditions of entitlement to family credit) shall be modified to the extent that entitlement to family credit shall be determined upon the assumption that the circumstances of the family (but not the ages of its members except where a young person attains the age of 19 on or before 11th April 1988) are the same on 11th April 1988 as they were at the date of the claim for family income supplement.

Words in reg. 6(1) substituted by reg. 2 of S.I. 1988/239 as from 20.2.88.

(2) In a case to which regulation 3(2) or (3) applies, the weekly earnings of the claimant and, if he is a member of a married or unmarried couple, those of the other member shall be calculated by deducting from the weekly earnings as calculated for the purpose of assessing entitlement to family income supplement

- (a) an amount in respect of income tax equivalent to an amount calculated by applying the basic rate of tax for the tax year 1987/88 to those earnings, less only the personal relief, appropriate to a week, to which the claimant is entitled under sections 8(1) and (2) and 14(1)(a) and (2) of the Income and Corporation taxes Act 1970(a) (personal and additional relief); and
- (b) an amount in respect of primary Class 1 contributions under the Social

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(a) 1970 c.10; section 8(1) was amended by the Finance Act 1971 (c.68) section 37, Schedule 6 paragraphs 1 and 5, and by the Finance Act 1985 (c.54) section 36; subsection (1A) was added by the Finance (No. 2) Act 1975 (c.45) section 31 and amended by the Finance Act 1977 (c.36) section 22. Subsection (1B) was added by the Finance (No. 2) Act 1975, section 31. Section 8(2) was amended by the Finance Act 1971 section 37, Schedule 6 paragraphs 1 and 5 and by article 2 of S.I. 1985/430; sub-paragraph (b) was substituted by the Finance (No. 2) Act 1979 (c.47) section 12, Schedule 2 paragraph 1; sub-paragraphs (b)(i) and (ii) were amended by the Finance Act 1981 (c.35), section 139, Schedule 19 Part VI and the Finance Act 1982 (c.39) section 157, Schedule 22 Part IV; sub-paragraph (b)(iii) was added by the Finance Act 1981 section 27 and sub-paragraph (b)(iv) by the Finance Act 1987 (c.16) section 27. Section 14(1) was amended by the Finance Act 1970 (c.24) section 14, Schedule 8 Part VI; section 14(2) was amended by the Finance Act 1976 (c.40) section 36, the Finance (No. 2) Act 1979, section 11, Schedule 1 paragraph 2 and the Finance Act 1980 (c.48) section 24.

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Security Act 1975(a) equivalent to an amount calculated by applying the appropriate percentage rate specified in section 4(6B) of that Act in respect of the tax year 1987/88 to those earnings.

(3) In a case to which regulation 3(2) or (3) applies the weekly income of a claimant and, if he is a member of a married or unmarried couple, that of the other member of the couple, other than earnings to which paragraph (2) applies, shall be calculated by deducting from the gross weekly income as calculated for the purpose of assessing entitlement to family income supplement the sums, where applicable, specified in Schedule 2 to the Family credit (General) Regulations 1987(b) (income other than earnings to be disregarded).

#### Determination of circumstances where family credit is claimed before 11th April 1988

7. In a case to which regulation 3(1) applies (claim received before 11th April 1988), Esections 20(5) and 22(6)F of the Act (conditions of entitlement to family credit) shall be modified to the extent that the circumstances of the family (but not the ages of its members) shall be determined as at the date when the claim is received at an appropriate office.

Words in reg. substituted by reg. 2 of S.I. 1988/239 as from 20.2.88.

#### Entitlement to family credit following entitlement of family income supplement

8.—(1) Where a claim for family credit is treated as made on 11th April 1988, by virtue of regulation 3(2) (pre-existing entitlement to family income supplement) and all the conditions of entitlement to family credit as modified by regulation 6(determination of circumstances where family credit replaces family income supplement), are satisfied, including the capital conditions in section 22(6) of the Act and the income conditions in section 20(5)(a) of the Act, family credit shall be awarded at the rate at which family income supplement was payable on 5th April 1988, together with an additional £2.55 per week for each child or young person included in the family for which family income supplement was payable on 5th April 1988, except where such a rate would be lower than the rate at which family credit would otherwise be payable.

(2) Where a claim for family credit is treated as made on 11th April 1988, by virtue of regulation 3(2), and, apart from the income conditions in section 20(5)(a) of the Act, all the conditions of entitlement to family credit as modified by regulation 6, including the capital conditions in section 22(6) of the Act, are satisfied, family credit shall be awarded at the rate at which family income supplement was payable on 5th April 1988, together with an additional £2.55 per week for each child or young person included in the family for which family income supplement was payable on 5th April 1988.

(3) In the case of an award of family credit on a claim treated as made on 11th April 1988 by virtue of regulation 3(1) or (2), in respect of a person for whom family income supplement was payable on 5th April 1988, the first day of the award (namely 11th April 1988) shall be treated as a week for the purpose of calculating

(a) the amount payable; and

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(a) See sections 1 and 4 of the Social Security Act 1975 (c.14) section 1 was amended by section 40 of the Employment Protection Act 1975 (c.71), section 24 of, and Schedule 2 to, the Social Security (Miscellaneous Provisions) Act 1977 (c.5), section 2 of the Social Security (Contributions) Act 1982 (c.2), section 29 of, and paragraph 5 of Schedule 5 to, the Social Security Act 1985 (c.53), section 86 of, and Schedule 11 to, the Social Security Act 1986 (c.50) and S.I. 1987/48; section 4 was amended by paragraph 36 of Schedule 4 to the Social Security Pensions Act 1975 (c.60), section 2(4) of the Education (School-Leaving Dates) Act 1976 (c.5), section 14(1) of the Social Security Act 1979 (c.18), Schedule 5 of the Social Security and Housing Benefits Act 1982 (c.24), sections 7(1) and (2) and 8(1) of the Social Security Act 1985, sections 74(1)(a) and (2) and 86 of, and paragraph 104 of Schedule 10 to, the Social Security Act 1986 and S.I. 1986/25 and 1987/46.

(b) S.I. 1987/1973.

- (b) the number of weeks for which family credit should be payable under section 20(6) of the Act (period for which family credit payable), as modified by regulation 9 (initial periods of family credit).

### Initial periods of family credit

9.—(1) In the case of an award of family credit on a claim treated as made on 11th April 1988 by virtue of regulation 3(2) (pre-existing entitlement to family income supplement), section 20(6) of the Act shall be modified by substituting for the words “for a period of 26 weeks or such other period as may be prescribed, beginning with the week in which the claim is made or is treated as made and” the words “for a period beginning with the week in which a claim for it is made or is treated as made and ending 52 weeks after the start of the most recent award of family income supplement, or on such earlier date as the Secretary of state shall, in any particular case, decide and”.

(2) In the case of an award of family credit on any claim made or treated as made before 5th October 1988, except an award to which paragraph (1) applies, section 20(6) of the Act shall be modified by substituting for the words “for a period of 26 weeks or such other period as may be prescribed” the words “for such period of at least 14 weeks but not more than 39 weeks, as the Secretary of State shall in any particular case decide”.

Signed by authority of the Secretary of State for Social services.

*Nicholas Scott*  
Minister of State,

20th November 1987

Department of Health and Social Security

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### EXPLANATORY NOTE

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

These Regulations make transitional provision for awards of family credit on claims made before 11th April 1988 (which is when the family credit provisions in Part II of the Social Security Act 1986 come into force) and in the six months after that date.

Regulation 3 provides for cases where family credit is to be treated as claimed on 11th April 1988.

Regulation 4 treats certain claims for family credit as including claims for family income supplement until 11th April 1988. Wherever both benefits are claimed regulation 5 requires entitlement to family income supplement to be determined first.

Regulations 6 and 7 make transitional provision for the determination of circumstances (and modify section 20(5) of the social security act 1986 in this regard) where the claim for family credit is treated as made on 11th April 1988.

Regulation 8 provides that, where an award of family credit follows an award of family income supplement, the rate is to be at least as beneficial as if the award of family income supplement had continued and the payment for 11th April 1988 is to be treated as a payment for a full week.

Regulation 9 provides for initial awards of family credit to be for periods other than 26 weeks (and modifies section 20(6) of the Act in this regard).

**FAMILY CREDIT (TRANSITIONAL) REGULATIONS**

These Regulations contain only provisions consequential on sections 20 to 22 of the Social Security Act 1986 and Regulations made under those sections in their application to family credit and are made before the expiry of 12 months from the commencement of those sections. Accordingly the Regulations are exempt, by section 61(5) of that Act, from reference to the Social Security Advisory Committee and have not been so referred.