

1980 No. 330

## SUPPLEMENTARY BENEFITS

The Supplementary Benefit (Aggregation) Regulations  
(Northern Ireland) 1980*Made* . . . . . 30th September 1980*Coming into operation* . . . . . 24th November 1980

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(2) and (2A) and 4(2) of, and paragraph 3(2) of Schedule 1 to, the Supplementary Benefits (Northern Ireland) Order 1977(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1980 and shall come into operation on 24th November 1980.

(2) In these regulations—

“the Order” means the Supplementary Benefits (Northern Ireland) Order 1977(a);

“claimant” means a claimant for supplementary benefit;

“the Department” means the Department of Health and Social Services;

“patient” means a person (other than a prisoner) who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;

“prisoner” means a person who is in prison or otherwise detained in legal custody, including any period during which he is a patient in any hospital or similar institution while still liable to be so imprisoned or detained or during which he was liable to be detained in such institution by virtue of any provision of the Mental Health Act (Northern Ireland) 1961(b);

“pupil” means a person who is excluded from entitlement to supplementary benefit by Article 9(2) of the Order (persons other than those in prescribed circumstances aged 16 or more but less than 19 and receiving relevant education);

“relevant education” has the meaning assigned to it in Article 9(3) of the Order;

“the Schedule” means Schedule 1 to the Order;

“week” means any period of 7 consecutive days.

*Circumstances in which married couples are to be treated as being, or not being, members of the same household*

2.—(1) This regulation shall apply for the purposes of paragraph 3(1) of the Schedule (aggregation of requirements and resources of couples).

(a) 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. 8)), are set out in Part-II of that Schedule

(b) 1961 c. 15 (N.I.)

(2) Subject to paragraph (3), two persons who are married to each other shall not be treated as having ceased to be members of the same household by reason of any temporary absence the one from the other.

(3) Where two persons are married to each other and, before the occurrence of the circumstances to which this paragraph applies, were members of the same household, and one of them—

- (a) is living away from his partner in residential accommodation, including accommodation provided pursuant to Article 15 (general social welfare) or 36 (accommodation for persons in need in premises maintained by certain persons or voluntary organisations) of the Health and Personal Social Services (Northern Ireland) Order 1972(c), he shall continue to be treated as a member of the same household as his partner unless—
  - (i) his partner is not entitled to supplementary pension or allowance but the couple have insufficient resources to pay the appropriate charges determined pursuant to Article 99 of that Order, or
  - (ii) in the opinion of a benefit officer, his stay in that accommodation has become other than temporary;
- (b) is a patient, he shall continue to be treated as a member of the same household as his partner unless either—
  - (i) he has been a patient for a continuous period of more than 2 years, or
  - (ii) he is a person to whom sub-paragraph (a)(ii) applies;
- (c) is absent from Northern Ireland while his partner remains in Northern Ireland, he shall be treated as not being a member of the same household as his partner for any period of that absence which exceeds four weeks, except that this sub-paragraph shall not apply where the absent partner is a claimant to whom regulations pursuant to Article 3(1B) of the Order (entitlement to benefit to continue during prescribed periods of temporary absence from Northern Ireland) do not apply;
- (d) is a prisoner for any period, he shall be treated as not being a member of the same household as his partner for that period.

*Circumstances in which a person is to be treated as being responsible for another person*

3.—(1) This regulation shall apply for the purposes of paragraph 3(2) of the Schedule (aggregation of requirements and resources of dependants).

(2) A claimant (in this regulation referred to as A) shall be treated as responsible for another person (in this regulation referred to as B) where—

- (a) B is a child or a pupil or a person to whom paragraph (5) applies;
- (b) B is a member of the same household as A; and
- (c) A and B are not a married or unmarried couple.

(3) Where—

- (a) the household includes, in addition to A and B, another member (in this regulation referred to as C); and
- (b) C is neither a partner of A nor a person whose requirements and resources fall to be aggregated with those of A,

any question as to whether A or C is responsible for B shall be determined by reference to the closeness to, and nature of the relationship with, B.

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(c) S.I. 1972/1265 (N.I. 14): as amended by Article 11 of the Health and Personal Social Services (Northern Ireland) Order 1978 (S.I. 1978/1907 (N.I. 26))

(4) Where a household includes both—  
 (a) a person to whom paragraph (5) applies; and  
 (b) a person who, if a claim were made for a supplementary pension or allowance and the person to whom sub-paragraph (a) applies were a pupil, would be the claimant for that pension or allowance,  
 the person to whom sub-paragraph (b) applies shall be treated as responsible for the person to whom sub-paragraph (a) applies.

- (5) A person to whom this paragraph applies is a person who—  
 (a) is aged 19, but less than 20;  
 (b) is attending a course which would, if he were aged less than 19, be relevant education;  
 (c) attained the age of 19 on or after the first day of the autumn term of the college or school year applicable to his course; and  
 (d) during the whole of the two years immediately preceding the beginning of his course was neither in full-time work within the meaning of Article 9 of the Order nor available for employment within the meaning of Article 7 of the Order, but was receiving relevant education.

*Dependants who are not to be treated as members of the household*

4.—(1) This regulation shall apply for the purposes of paragraph 3(2) of the Schedule (aggregation of requirements and resources of dependants) where—

- (a) a claimant (in this regulation referred to as A) is responsible for and would, but for this regulation, be a member of the same household as another person (in this regulation referred to as B); and  
 (b) by virtue of that paragraph, B's requirements and resources would, but for this regulation, fall to be aggregated with and treated as A's.
- (2) B shall be treated as not being a member of the same household as A where—  
 (a) B has been absent from Northern Ireland for a continuous period of more than 4 weeks; or  
 (b) B is a prisoner; or  
 (c) B has been a patient or has been in residential accommodation by virtue of any mental disorder or physical or mental handicap or illness for a continuous period of more than 12 weeks and the benefit officer is satisfied that neither A nor any other member of A's household maintains regular contact with him, by visiting him or otherwise; or  
 (d) B is not living with A and—  
 (i) he is in the care of the Department, or  
 (ii) he is maintained under a legally enforceable obligation by a person other than A, or  
 (iii) he is a child or young person, as defined in the Children and Young Persons Act (Northern Ireland) 1968(d), who is subject to a training school order under that Act, or who is otherwise detained in legal custody, or  
 (iv) A is not treated as a person responsible for him for the purposes of Article 5 of the Child Benefit (Northern Ireland) Order 1975(e) (meaning of "person responsible for child" for purposes of entitlement to child benefit).

(d) 1968 c. 34 (N.I.)

(e) S.I. 1975/1504 (N.I. 16)

(3) In any case to which paragraph (2)(a), (b), (c) or (d)(i), (ii) or (iv) applies, B shall be treated as a member of the same household as A for any period during which he is living with A.

(4) In a case to which paragraph (2)(d)(iii) applies, B shall only be treated as a member of the same household as A for any period during which he is living with A and is a child or young person who has been released on licence under paragraph 8 of Schedule 5 to the Children and Young Persons Act (Northern Ireland) 1968.

*Prescribed circumstances in which resources and requirements are to be aggregated*

5. The prescribed circumstances for the purposes of paragraph 3(2)(b) of the Schedule (aggregation of requirements and resources in prescribed circumstances) shall be that the other person shall be a person to whom regulation 3(5) (person aged 19 attending a course of education) applies.

*Circumstances in which persons are not an unmarried couple*

6.—(1) Where a person (in this regulation referred to as A) has been in receipt of a supplementary pension or allowance determined by reference to requirements and resources which did not include those of another person (in this regulation referred to as B) but did by virtue of paragraph 3(2) of the Schedule (aggregation of requirements and resources of dependants) include those of another person or persons (in this regulation referred to as C) of whom B is not the parent and—

- (a) a benefit officer has determined that A and B are living together as husband and wife so that the requirements and resources of A would, but for this regulation, by virtue of paragraph 3(1) of the Schedule (aggregation of requirements and resources of couples), be aggregated with those of B and A would no longer be entitled to that pension or allowance; and
- (b) if B made a claim for supplementary pension or allowance he would not be entitled to it in respect of himself and the persons (including A) whose requirements and resources would be aggregated with and treated as his by virtue of the said paragraph 3(1) and (2) (in this regulation those persons and B being referred to as ‘B’s assessment unit’); and
- (c) the immediate reduction in the income of B’s assessment unit which would result from the loss of the supplementary pension or allowance payable to A would, in the opinion of the benefit officer, be disproportionate,

for a period of adjustment A and B shall not be an unmarried couple (within the meaning of that expression in Article 2(2) of the Order).

(2) In this regulation ‘period of adjustment’ means the period of 4 weeks beginning on the day on which the determination that A and B are not to be an unmarried couple is made, except that if within that period it is in the opinion of the benefit officer likely that the income of B’s assessment unit will soon be increased, that period may be extended until that increase in income or for a further period of 6 weeks, whichever is the shorter period.

(3) Where by reason of this regulation A and B are not an unmarried couple, no person other than C shall be treated as a member of the same household as A for the purposes of any claim for supplementary pension or allowance.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 30th September 1980.

(L.S.)

T. S. Martin

Assistant Secretary

## EXPLANATORY NOTE

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

These regulations contain provisions relating to the aggregation of requirements and resources, for the purpose of entitlement to supplementary benefit, under paragraph 3(1) and (2) of Schedule 1 to the Supplementary Benefits (Northern Ireland) Order 1977 as amended by the Social Security (Northern Ireland) Order 1980. Under those sub-paragraphs aggregation applies to couples who are married and living together in the same household, to unmarried couples who are living together as husband and wife otherwise than in prescribed circumstances, and in circumstances in which one person is responsible for and a member of the same household as a child under 16, or under 19 and still at college or school, or in prescribed circumstances.

For the purposes of those provisions, regulation 2 of the regulations provides that married couples are to continue to be members of the same household for periods where one of them is temporarily absent from the other unless one is in hospital, residential accommodation or abroad in certain circumstances, or is in prison. Regulation 3 provides that a claimant is to be treated as responsible for any child ("dependant") under 16 or aged 16-19 and still at college or school who is a member of the same household as the claimant. Regulation 4 provides that a dependant for whom the claimant is responsible, but who is away from home in certain circumstances, is not to be treated as a member of the same household as the claimant. Regulation 5 provides that aggregation shall apply to a person aged 19 for whom the claimant is responsible by virtue of regulation 3. Regulation 6 provides that certain persons who would be subject to aggregation as an unmarried couple and would not be entitled to supplementary pension or allowance, in circumstances in which one of them has a dependant and before being subject to aggregation had been so entitled, are not to be treated as such a couple for a period of adjustment.