

1980 No. 356

SUPPLEMENTARY BENEFITS**The Supplementary Benefit (Deductions and Payments to Third Parties) Regulations (Northern Ireland) 1980***Made* 14th October 1980*Coming into operation* 24th November 1980**ARRANGEMENT OF REGULATIONS**

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The Department of Health and Social Services, in exercise of the powers conferred on it by Article 19(1) and (2)(h) and (i) of 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 (Deductions and Payments to Third Parties) 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);

“Requirements Regulations” means the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980(b);

“Resources Regulations” means the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1980(c);

“allowance” means a supplementary allowance under Article 3(1)(b) of the Order;

“assessment unit” means the claimant and any partner or dependant of the claimant;

“claimant” means a claimant for supplementary benefit;

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

(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) S.R. 1980 No. 347

(c) S.R. 1980 No. 348

“dependant” means a person whose requirements and resources are by virtue of paragraph 3(2) of Schedule 1 to the Order aggregated with and treated as those of the claimant;

“mortgage payment” means a payment attributable to interest on a mortgage to which regulation 16 of the Requirements Regulations (mortgage payments) applies; and for the purposes of these regulations includes interest payable on loans to which regulation 18 of those regulations (interest on loans for repairs and improvements) applies;

“partner” means one of a married or unmarried couple;

“pension” means a supplementary pension under Article 3(1)(a) of the Order;

“rent” has the meaning assigned to it in the Requirements Regulations and, for the purposes of these regulations, where in a particular case a claimant’s rent includes elements which would not otherwise fall to be treated as rent, references to rent shall include those elements;

“single householder rate” means the weekly amount for the time being applicable for the normal requirements of a person to whom paragraph 4 of the Table in paragraph 2 of Schedule 1 to the Order (certain householders under pensionable age) applies.

Circumstances in which payment of benefit is postponed

2.—(1) Where a claimant —

(a) has been awarded a pension or allowance; and

(b) in the opinion of a benefit officer, has failed to budget for items to which the category of normal requirements relates but for which the need arises at irregular or extended intervals,

the benefit officer may determine that payment of so much of that pension or allowance as he considers appropriate in the circumstances is withheld weekly for the duration of the award.

(2) Where —

(a) the benefit officer has made such a determination; and

(b) he is satisfied that the need for any item to which paragraph (1)(b) relates has arisen,

he shall direct that the amount which has been withheld in accordance with that determination, or so much of it as he considers appropriate in the circumstances, is paid to the claimant.

Regular payments to third parties for housing and fuel requirements

3.—(1) Where a claimant —

(a) has been awarded a pension or allowance; and

(b) is in debt, other than in circumstances to which paragraph (6) applies, for any item of expenditure —

(i) to which the category of housing requirements relates (in this regulation referred to as a “housing item”), or

(ii) on gas or electricity to which the category of normal or additional requirements relates (in this regulation referred to as a “fuel item”),

and, in the opinion of a benefit officer, has failed to budget for it, the benefit officer may, if in his opinion it would be in the interests of the assessment unit to do so, make a determination in accordance with paragraph (2).

(2) In a case to which paragraph (1) applies, the benefit officer shall determine that the amount of the award of pension or allowance calculated in accordance with

the following paragraphs shall be paid at such intervals as the Department may direct to the person or body to whom payment is due on behalf of the claimant in discharge of an obligation of his.

(3) Subject to the following paragraphs, the amount to which the determination applies shall be such weekly aggregate of the following as is appropriate—

- (a) in respect of any debt to which paragraph (1)(b) applies, a weekly amount equal to 5 per cent. of the single householder rate (that 5 per cent. being, where it is not a multiple of 5 pence, rounded to the next higher such multiple), for such a period as is necessary to discharge that debt; and
- (b) in respect of any such debt, so much as is for the time being necessary to meet continuing needs for the relevant item, being in the case of a housing item the actual weekly cost, and in the case of a fuel item the estimated average weekly cost.

(4) Where —

- (a) in respect of a fuel item, the aggregate amount calculated under paragraph (3) but excluding any increase in that amount by virtue of sub-paragraph (b) exceeds a sum equal to 25 per cent. of the total weekly requirements applicable to the assessment unit under Part II of the Requirements Regulations (normal requirements), a determination in accordance with paragraph (2) shall be made only with the consent of the claimant;
- (b) in a case to which paragraph (1)(b)(ii) applies, the amount of the claimant's earnings or other income falling to be taken into account for the purpose of calculating his resources is reduced by regulation 10(5) or 11(5) of the Resources Regulations (partial disregard of earnings or other income respectively), the weekly amount applicable to the debt under paragraph (3)(a) may be increased by an amount not exceeding the sum for the time being specified in the said regulation 11(5);
- (c) in respect of a housing item, either the amount which would be applicable under paragraph (3) exceeds the award of pension or allowance, or that award exceeds the amount by—
 - (i) where the claimant is also entitled to payment of any benefit under the Social Security (Northern Ireland) Acts 1975(d) which is paid weekly and, under arrangements made by the Department, that pension or allowance is payable together with such a benefit, less than 5 pence,
 - (ii) in any other case, less than 10 pence,

that amount shall be adjusted so that 5 pence or, as the case may be, 10 pence of the award is payable to the claimant;

- (d) subject to sub-paragraph (e), where, in any one week, more than one amount would fall to be paid in respect of the claimant under paragraph (3)(a), the total amount thus payable shall not exceed a weekly amount equal to 3 times the 5 per cent. mentioned in paragraph (3)(a);
- (e) where in any one week —
 - (i) any one amount, or more than one such amount, falls to be paid in respect of the claimant under paragraph (3)(a), and
 - (ii) any payment falls to be recovered from the claimant by deduction from an award of pension or allowance in pursuance of Article 25(4) of the Order (recovery from prescribed benefits in cases of misrepresentation or non-disclosure) (in this regulation referred to as a "payment to be recovered"),

(d) See Article 1(2) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15))

the aggregate of any such amount and any such payment shall not exceed a weekly amount equal to 3 times the 5 per cent. mentioned in paragraph (3)(a), and for the purposes of sub-paragraphs (c), (d) and (e) priority shall be given in accordance with paragraph (5).

(5) For the purposes of this regulation —

- (a) any debt which is in respect of rent or mortgage payments shall have priority over any other debt or any payment to be recovered;
- (b) any debt for a fuel item shall have priority over any debt for a housing item, other than one to which sub-paragraph (a) applies, or any payment to be recovered;
- (c) as between debts for fuel items of gas or electricity, the benefit officer shall give priority to whichever debt he considers it would, having regard to the circumstances and to any requests of the claimant, be appropriate to discharge;
- (d) any debt for a housing item other than one to which sub-paragraph (a) applies shall have priority over any payment to be recovered.

(6) Paragraph (1) shall not apply to any debt —

(a) which is —

- (i) in respect of rent or mortgage payments and the claimant has in the preceding 12 weeks paid sums equal to his rent for 6 weeks or, as the case may be, in the preceding 12 weeks sums equal to 2 mortgage payments due in that period,
- (ii) for any other housing item and is less than half the annual amount due to be paid by the claimant in respect of that item,

unless, in either case, in the opinion of the benefit officer it is in the overriding interests of the assessment unit to make a determination under paragraph (2);

(b) which is for a fuel item and —

- (i) the debt is for less than the single householder rate rounded, where it is not expressed in whole pounds, to the next higher whole pound, or
- (ii) the claimant or his partner have any capital resources calculated in accordance with Part II of the Resources Regulations which exceed the debt, or
- (iii) there is in the claimant's household a person other than a partner or dependant who could reasonably be expected to help the claimant pay the debt at least to the extent of bringing the debt below the sum mentioned in head (i), or
- (iv) if it were for a housing item, paragraph (4)(c) would apply.

Regular payments to landlords on behalf of boarders

4. Where a claimant —

- (a) has been awarded a pension or allowance;
- (b) is a person to whom regulation 9 of the Requirements Regulations (boarders) applies; and
- (c) in the opinion of a benefit officer, has failed to budget for charges for his board and lodging to which paragraph (1)(a) of the said regulation applies,

the benefit officer may, if it is in the interests of the assessment unit to do so, determine that the amount of the award of pension or allowance equal to the amount applicable under the said regulation for such charges shall be paid at such intervals as the Department may direct to the person to whom such charges are due, on behalf of the claimant in discharge of his obligation.

*Payments to the Department in respect of residential accommodation***5.** Where —

- (a) the claimant has been awarded a pension or allowance;
- (b) in determining the requirements of the assessment unit, regulation 10 of, and paragraph 1 of Schedule 2 to, the Requirements Regulations (requirements for persons in accommodation provided by the Department) has applied to any member; and
- (c) that member fails to pay any sum due from him under Article 99 of the Health and Personal Social Services (Northern Ireland) Order 1972(e) (charges to be made for accommodation for persons in need),

a benefit officer may determine that the amount of the award of pension or allowance equal to the amount to which the said regulation and the said paragraph 1 relate shall be paid to the Department on behalf of that member in discharge of his liability under the said Article 99.

*Payment of supplementary benefit to third parties***6.** Where a claimant —

- (a) has been awarded a pension or allowance;
- (b) is not a claimant to whom regulations made pursuant to Article 19(2)(b) of the Order (claimant unable to act in relation to his claim) apply; and
- (c) in the opinion of a benefit officer is incapable of budgeting, or wilfully refuses to budget, for any item of expenditure to which Part II, III or IV of the Requirements Regulations (normal, additional or housing requirements) applicable to him relates,

the benefit officer may, if in his opinion it would be in the interests of the assessment unit to do so, determine that all or part of the award of pension or allowance should be paid to such person as the Department may appoint.

Payments to be made when entitlement to supplementary benefit ends

7. Where a claimant to whom regulation 2, 3, 4, 5 or 6 applies ceases to be entitled to a pension or allowance —

- (a) any payment withheld from the award by virtue of regulation 2 shall be paid to him as soon as is practicable;
- (b) any amount payable out of the award to a third party by virtue of regulation 3, 4, 5 or 6 shall be paid to that third party as soon as is practicable.

*Payment of single payments to third parties***8.** Where a claimant is entitled to —

- (a) any amount of supplementary benefit by way of a single payment under Article 5 of the Order (supplementary benefit to meet exceptional need); or
- (b) any sum payable by virtue of Article 6 of the Order (provision for cases of urgent need),

for the provision of a specific item, the Department may direct that that amount or sum shall be paid to the person who, or the body which, supplied that item, on behalf of the claimant in discharge of an obligation of his.

(e) S.I. 1972/1265 (N.I. 14): Article 99 was amended by Article 15 and paragraph 7 of Schedule 3 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8))

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 14th October 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 provide for the manner and circumstances in which supplementary benefit may be either withheld and subsequently paid to a claimant or paid direct to a third party.

Regulation 2 provides for part payment of a supplementary pension or allowance ("pension or allowance") to be withheld on a weekly basis where a claimant has failed to budget for items which are needed only occasionally, and payment to him of the sums withheld when the need arises. Regulation 3 relates to the circumstances in which housing costs and fuel costs are to be met regularly by direct payment out of the pension or allowance on behalf of the claimant. The regulation contains provisions for the calculation, on a weekly basis, of the amount payable direct, the maximum amount deductible, and for priority of debts and continuing needs. Regulations 4 and 5 provide for direct payment out of a pension or allowance to landlords for board and lodging charges and to the Department of Health and Social Services for charges for residential accommodation.

Regulation 6 provides for the whole or part payment of a pension or allowance to a third party where a claimant is incapable of budgeting or refuses to budget for any requirement. Under regulation 7, when entitlement to a pension or allowance ends any payment withheld or deducted under the preceding regulations is to be paid to the claimant or the third party as soon as is practicable. Regulation 8 provides for a single payment of supplementary benefit for a specific item to be payable direct to the supplier of the item.