

1980 No. 382

SOCIAL SECURITY

The Child Benefit (Determination of Claims and Questions) (Amendment No. 2) Regulations (Northern Ireland) 1980

Made 30th October 1980

Coming into operation 24th November 1980

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by Article 9 of the Child Benefit (Northern Ireland) Order 1975(a) and section 119(3) and (4) of the Social Security (Northern Ireland) Act 1975(b) as applied by Article 10 of the above mentioned Order 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 Child Benefit (Determination of Claims and Questions) (Amendment No. 2) Regulations (Northern Ireland) 1980 and shall come into operation on 24th November 1980.

(2) In these regulations “the principal regulations” means the Child Benefit (Determination of Claims and Questions) Regulations (Northern Ireland) 1976(c).

Amendment of regulation 4 of the principal regulations

2. In regulation 4(9) of the principal regulations (appeal to local tribunal) for “twenty-one days after the date on which the claimant is given notice in writing of the decision” there shall be substituted “twenty-eight days beginning with the date when the Department gives to the claimant notice in writing of the decision”.

Insertion of new regulation 4A in the principal regulations

3. After regulation 4 of the principal regulations there shall be inserted the following regulation—

“Application for leave to appeal to a Commissioner

4A.—(1) Article 11 of the Social Security (Northern Ireland) Order 1980(d) (leave required for appeal from local tribunal to Commissioner) shall apply in relation to appeals to a Commissioner under the Order.

(2) Subject to the following provisions of this regulation, an application to the chairman of a local tribunal for leave to appeal to a Commissioner from a decision of a local tribunal which is unanimous shall be made in the first instance—

- (a) orally at the hearing after the decision is announced by the tribunal; or
- (b) in writing within twenty-eight days beginning with the date when a copy of the record of the tribunal’s decision was given to the person concerned.

(3) The decision of the chairman on an application for leave to appeal made orally shall be recorded in the record of the proceedings of the tribunal.

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

(b) 1975 c. 15; section 119(4) was amended by Article 3 of, and para. 12 of Sch. 1 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I.8))

(c) S.R. 1976 No. 225 (I, p. 1038); the relevant amending regulations are S.R. 1978 No. 106 (I, p. 311)

(d) S.I. 1980/870 (N.I. 8)

(4) A person who has been refused leave to appeal by the chairman of a tribunal may apply for such leave in writing to a Commissioner within six weeks beginning with the date when that person is given notice in writing of the chairman's decision refusing leave or within such further time as the Commissioner may for special reasons allow.

(5) Where an application having been made out of time the chairman of the local tribunal refuses leave to appeal, the person concerned may apply for such leave in writing to a Commissioner within ten weeks beginning with the date when a copy of the record of the tribunal's decision against which he seeks leave to appeal was given to him, or within such further time as the Commissioner may for special reasons allow.

(6) Every application for leave to appeal required by this regulation to be in writing shall be made by giving it or sending it to the Department for transmission either to the chairman of the local tribunal against whose decision it is desired to appeal, or to a Commissioner, as the case may be; and every such application shall contain a statement of the grounds upon which leave to appeal is requested.

(7) Where an application in writing for leave to appeal is made by an insurance officer, the insurance officer shall, as soon as may be practicable, send to the claimant a copy of the application.

(8) Where, in any case, it is impracticable or it would be likely to cause undue delay for an application for leave to appeal against a decision of a local tribunal to be determined under Article 11(1) of the Social Security (Northern Ireland) Order 1980 by the person who was chairman of that tribunal, that application shall be determined by any other person appointed to act as a chairman for the particular area or if there is no such person by the chairman of a local tribunal in an adjoining area."

Amendment of regulation 5 of the principal regulations

4. In regulation 5 of the principal regulations (appeal from local tribunal to Commissioner)—

- (a) in paragraph (1) after "Subject to the provisions" there shall be inserted "of regulation 4A and";
- (b) in paragraph (3) for "from the date of the decision of the local tribunal or" there shall be substituted "beginning with the date when notice in writing of the decision of the local tribunal was given or; if leave to appeal is required, within three months beginning with the date when notice of the decision granting leave to appeal was given or in either case".

Amendment of regulation 13 of the principal regulations

5. In regulation 13 of the principal regulations (hearings before a local tribunal), at the end of paragraph (3) there shall be added "but such consent may only be given if the claimant is first informed of the effect of the provisions requiring leave to appeal to a Commissioner from a decision of a tribunal which is unanimous."

Amendment of regulation 16 of the principal regulations

6. In regulation 16 of the principal regulations (payment of sums on account of benefit where appeal is pending) for paragraph (2) there shall be substituted the following—

"(2) Subject to paragraph (4), where notice of an appeal by an insurance officer to a Commissioner from an award of a local tribunal is given or sent to the claimant within a period of twenty-eight days beginning on the date when the insurance officer was given notice in writing of the local tribunal's decision, payment of the benefit to which the appeal relates shall be suspended until the appeal has been determined.

- (3) Where leave is necessary for such an appeal and either—
- (a) application for leave having been made by an insurance officer to the chairman of the local tribunal, notice of that application is given or sent to the claimant within the twenty-eight day period referred to in paragraph (2), or
 - (b) such an application having been refused and an application for leave to appeal having been made by the insurance officer to the Commissioner, notice of the latter application is given or sent to the claimant within six weeks of the date on which the insurance officer was notified of the refusal of the chairman of the local tribunal to give leave to appeal,

payment of the benefit to which the application for leave to appeal relates shall be suspended until a decision on the application (whether refusing or allowing leave to appeal) is given.

(4) In a case where leave to appeal is given on an application referred to in paragraph (3), paragraph (2) shall have effect as if the twenty-eight day period to which it refers began on the date on which notice was given to the insurance officer that leave to appeal had been given.”

Amendment of regulation 21 of the principal regulations

7.—(1) In paragraph (1) of regulation 21 of the principal regulations (certificate of the Supplementary Benefits Commission for Northern Ireland showing that more supplementary benefit would have been paid had benefit under the Act not been overpaid)—

- (a) in sub-paragraph (b) for “the Supplementary Benefits Commission for Northern Ireland certify that the person awarded benefit or some other person would have been paid supplementary benefit” there shall be substituted “a statement in writing of a supplementary benefit officer shows that in his opinion the person awarded benefit or some other person would have been paid a supplementary pension or allowance”;
- (b) at the end of the said paragraph (1) for “certificate” there shall be substituted “statement”.

(2) In paragraph (2)(b) (benefit under the Order treated as properly paid), for “the certificate” there shall be substituted “the statement of the supplementary benefit officer” and for “supplementary benefit” there shall be substituted wherever these words appear, “supplementary pension or allowance”.

(3) For the purposes of paragraphs (1) and (2) of the said regulation 21, a certificate of the Supplementary Benefits Commission for Northern Ireland issued before the date when this regulation comes into operation shall have effect on or after that date as if the amendments made by paragraphs (1) and (2) had not been made.

(4) For paragraph (3) there shall be substituted the following paragraph—

“(3) In this regulation “supplementary pension” and “supplementary allowance” mean such a pension or allowance under the Supplementary Benefits (Northern Ireland) Order 1977(e) and “supplementary benefit officer” means a person appointed under that Order to perform the functions conferred by it on benefit officers.”

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 30th 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 amend the Child Benefit (Determination of Claims and Questions) Regulations (Northern Ireland) 1976 ("the principal regulations") by prescribing new time limits for appeals to local tribunals, and from such tribunals to a Commissioner. They insert in the principal regulations a new regulation 4A which provides for Article 11 of the Social Security (Northern Ireland) Order 1980, requiring leave to appeal to a Commissioner from a decision of a tribunal which is unanimous, to apply to appeals under the Child Benefit (Northern Ireland) Order 1975. That regulation also makes provision for the time within which and the manner in which applications for such leave should be made, and for the procedure for dealing with such applications.

The regulations provide for a claimant to be informed of the effect of the provisions requiring such leave to appeal before he consents to a hearing by a local tribunal in the absence of one of its members.

The regulations amend regulation 16 of the principal regulations, which provides for suspension of benefit under a local tribunal award if the insurance officer gives notice of appeal to the Commissioner within twenty-one days, by extending that period to twenty-eight days. They also provide for suspension of benefit, in cases where leave to appeal is required, pending the determination of an application for such leave.

Regulation 7 amends a provision of the principal regulations whereby benefit is exempt from recovery as being overpaid if the Supplementary Benefits Commission for Northern Ireland certify that, but for the overpayment, more supplementary benefit would have been awarded. The amendment provides for a statement in writing showing the opinion of a benefit officer on that matter to replace the Commission's certificate.