

1980 No. 383

SOCIAL SECURITY

The Social Security (Determination of Claims and Questions) (Miscellaneous Amendments) 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 sections 106(2), 115 and 119(3) and (4) of, and Schedule 13 to, the Social Security (Northern Ireland) Act 1975(a) and Article 11(1) of the Social Security (Northern Ireland) Order 1980(b) 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 Social Security (Determination of Claims and Questions) (Miscellaneous Amendments) Regulations (Northern Ireland) 1980 and shall come into operation on 24th November 1980.

(2) In these regulations “the principal regulations” means the Social Security (Determination of Claims and Questions) Regulations (Northern Ireland) 1975(c).

Amendment of regulation 8 of the principal regulations

2. In regulation 8(1) of the principal regulations (review or reference) for “of the date when he receives notice, (given under regulation 6(6))” there shall be substituted “beginning with the date when the Department gives him notice in writing” and for “21” there shall be substituted “28”.

Amendment of regulation 9 of the principal regulations

3. In regulation 9(5)(a) of the principal regulations (appeals from insurance officers’ decisions) after “from the date” there shall be inserted “when the claimant is notified”.

Amendment of regulation 11 of the principal regulations

4. In regulation 11 of the principal regulations (hearings before local tribunals), at the end of paragraph (4) 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.”.

Insertion of new regulation 12A in the principal regulations

5. After regulation 12 of the principal regulations (decisions of local tribunals) there shall be inserted the following regulation—

(a) 1975 c.15; section 119 was amended by Article 23(1) of, and para. 34 of Sch. 4 to, the Child Benefit (Northern Ireland) Order 1975 (S.I. 1975/1504 (N.I. 16)); Article 16 of, and para. 8 of Sch. 3 to, the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) and Article 3 of, and para. 12 of Sch. 1 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I.8))
 (b) S.I. 1980/870 (N.I. 8)
 (c) S.R. 1975 No. 100 (I, p. 597); the relevant amending regulations are S.R. 1979 No. 354 (II, p. 1524)

“Application for leave to appeal to a Commissioner

12A.—(1) 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 (such application being required as a condition of appealing by Article 11 of the Social Security (Northern Ireland) Order 1980) 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 28 days beginning with the date when a copy of the record of the tribunal’s decision was given to the person concerned.

(2) 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.

(3) 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 6 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.

(4) 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 10 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.

(5) 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.

(6) 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.

(7) 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 the 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.”

Insertion of new regulation 15A in the principal regulations

6. At the end of Part III of the principal regulations (adjudication by insurance officers, local tribunals and Commissioners) there shall be inserted the following regulation—

“Rights of appeal of a person other than the beneficiary who is required to repay benefit

15A.—(1) This regulation applies to a person other than a beneficiary who is required to repay an amount of benefit to the Department, by a decision of an insurance officer, a local tribunal or the Commissioner, given in accordance with subsection (1) or (2A) of section 119 (effect of adjudication on payment and recovery) as modified by regulations made under subsections (3) and (4)(cc) of that section in their application to sums by way of benefit paid to a person other than, but on behalf of, a beneficiary.

(2) A person to whom this regulation applies shall, as respects the determination of the question whether he throughout used due care and diligence to avoid overpayment of benefit, have the same rights and powers under sections 100 to 104 and regulations 3 and 9 to 13 as has a claimant and references in those provisions to 'the claimant' shall be treated as including references to such a person."

Amendments of regulation 32 of the principal regulations

7.—(1) In paragraph (1)(b) of regulation 32 of the principal regulations (certificate of the Supplementary Benefits Commission showing that more supplementary benefit would have been paid had benefit under the Act not been overpaid), for "the Supplementary Benefits Commission certify that", there shall be substituted "a statement in writing of a supplementary benefit officer shows that in his opinion":

(2) In paragraphs (2) and (3)(b) of the said regulation 32 (benefit under the Act treated as properly paid), for "the certificate of the Supplementary Benefits Commission" there shall be substituted, in each case, "the statement of the supplementary benefit officer".

(3) For the purposes of paragraphs (2) and (3) of the said regulation 32, a certificate of the Supplementary Benefits Commission 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) above had not been made.

(4) At the end of paragraph (4) of the said regulation 32 (interpretation by reference to the Supplementary Benefits (Northern Ireland) Order 1977(d)) there shall be added—

"and 'supplementary benefit officer' means a person appointed under that Order to perform the functions conferred by it on benefit officers."

Amendment of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1975

8. In regulation 10(4) of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1975(e) (appeals to a Commissioner on a question of law) for "was made" there shall be substituted "was sent in accordance with regulation 12(1) to the person to whom such leave was given".

Amendment of the Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975

9. In regulation 16(2) of the Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975(f) (notification of decision and right of appeal)—

- (a) for "21" wherever that figure appears there shall be substituted "28"; and
- (b) for "after he has been notified of the insurance officer's decision" there shall be substituted "beginning with the date when the Department gave him notice in writing of the decision".

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

- (d) S.I. 1977/2156 (N.I. 27); Article 33(2) was amended by Article 7(1) of, and para. 23 of Sch. 2 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)).
- (e) S.R. 1975 No. 102 (I, p. 620); to which there are amendments not relevant to the subject matter of these regulations
- (f) S.R. 1975 No. 280 (II, p. 1352); to which there are amendments not relevant to the subject matter of these regulations

EXPLANATORY NOTE

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

These regulations amend the Social Security (Determination of Claims and Questions) Regulations (Northern Ireland) 1975 (the "principal regulations"), the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1975 and the Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975 by prescribing new time limits for appeals to the adjudicating authorities under the Social Security (Northern Ireland) Act 1975 (regulations 3, 8 and 9), and for review by the Department of Health and Social Services of a decision given by it under section 93 of that Act (regulation 2).

Regulation 4 provides 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.

Regulation 5 inserts a new regulation in the principal regulations which is concerned with applications for leave to appeal to a Commissioner from a decision of a local tribunal which is unanimous. The regulation makes provision for the time within which and the manner in which such application should be made, and for the procedure for dealing with such applications.

Regulation 6 inserts a new regulation in the principal regulations giving a person who has been paid benefit on behalf of a beneficiary and is subsequently required to repay an amount found to be overpaid the rights and powers of a beneficiary under adjudication provisions as respects the question whether he throughout used due care and diligence to avoid overpayment.

Regulation 7 amends a provision of the principal regulations whereby benefit is exempt from recovery as being overpaid if the Supplementary Benefits Commission 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.