

1980 No. 417

SUPPLEMENTARY BENEFITS

The Supplementary Benefit (Trade Disputes and Recovery from Earnings) Regulations (Northern Ireland) 1980

Made 18th November 1980

Coming into operation—

Regulations 1 to 11 and 23 24th November 1980

Remainder 1st April 1981

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 3(3), 6 and 13(2) of the Supplementary Benefits (Northern Ireland) Order 1977(a), Article 9(1) of the Social Security (Northern Ireland) Order 1980(b) and Article 6(1) of the Social Security (No. 2) (Northern Ireland) Order 1980(c) and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

GENERAL

Citation and commencement

1.—(1) These regulations may be cited as the Supplementary Benefit (Trade Disputes and Recovery from Earnings) Regulations (Northern Ireland) 1980 and shall, subject to paragraph (2), come into operation on 24th November 1980.

(2) Regulations 12 to 22 shall come into operation on 1st April 1981.

Interpretation

2.—(1) In these regulations—

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

“the No. 2 Order” means the Social Security (No. 2) (Northern Ireland) Order 1980;

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

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

“claimant”, except in Part IV, means a claimant for supplementary benefit;

“close relative” means a parent, child, step-parent, step-child, brother or sister;

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

“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;

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

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

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

“Resources Regulations” means the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1980(e).

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

(c) S.I. 1980/1087 (N.I. 13)

(d) S.R. 1980 No. 347

(e) S.R. 1980 No. 348

(2) References in these regulations to a person affected by a trade dispute are to a person whose requirements fall to be disregarded to any extent by virtue of Article 12.

(3) Except in so far as the context otherwise requires any reference in these regulations to a numbered Article or Schedule is to the Article or Schedule to the Order bearing that number.

PART II

URGENT TRADE DISPUTE CASES

Urgent cases

3.—(1) Cases to which this Part applies shall be urgent cases for the purposes of Article 6 (provision for cases of urgent need).

(2) The circumstances in which payments in pursuance of Article 6 shall be made to a person affected by a trade dispute, or any other member of the assessment unit, are those to which this Part applies and Article 12 (disregard of requirements of persons affected by trade disputes) shall not apply in respect of any requirements to which this Part applies.

(3) An amount shall not be applicable in respect of an item under any of regulations 5 to 8—

(a) if or to the extent that the resources of the claimant (including those of any other member of the assessment unit) include any capital which falls to be disregarded under regulation 6(1)(b) or (2) of the Resources Regulations (proceeds of sale of home and capital of £2,000 or less) or a weekly amount of income which is disregarded under those regulations or under regulation 11 below; and

(b) unless the need for that item cannot be met—

(i) by any member of the assessment unit or by any other person, including working members of the same household, a public authority, trade union, emergency relief fund or comparable source, to whom or to which it is reasonable to expect the assessment unit to look for assistance, or

(ii) from any credit facilities available to any member of the assessment unit, and the application of the regulation is the only means by which that need can be met.

(4) In relation to any case to which any of regulations 5 to 8 applies, paragraph 2 of Schedule 1 (requirements) shall be modified so that an amount, determined in accordance with that regulation, shall be applicable for additional requirements.

Emergency relief

4. Where a member of the assessment unit is affected by a trade dispute Part II of the Supplementary Benefit (Urgent Cases) Regulations (Northern Ireland) 1980 (emergency relief) shall apply notwithstanding the exclusion, in relation to such cases, in regulation 6(1)(b) of those regulations and Parts I and V (general and recovery) of those regulations shall also apply.

Dietary requirements

5.—(1) Where a member of the assessment unit who is affected by a trade dispute needs a special diet because he suffers from—

(a) renal failure for which he is treated by dialysis; or

(b) a condition for which he has to follow a diet which involves a cost of not less than the amount specified in paragraph (2)(a),

there shall, subject to regulation 3(3), be applicable to the claimant under paragraph 2 of Schedule 1 as an item of additional requirements an amount determined in accordance with sub-paragraph (a) or (b) of paragraph (2) but amounts shall not be applicable under both of those sub-paragraphs in respect of the same person.

(2) The amounts referred to in paragraph (1) shall be—

- (a) where paragraph (1)(a) applies, the weekly amount of £8.00;
- (b) where paragraph (1)(b) applies, the cost of the diet calculated on a weekly basis.

(3) For the purposes of paragraphs (1)(b) and (2)(b) the amount of the cost of a diet shall exclude any amount which is attributable to proprietary foods or substances which are available under the Health and Personal Social Services (Northern Ireland) Order 1972(f).

(4) The requirements which by virtue of Article 3(3) (exclusion of medical, etc., requirements) are not included in a person's requirements exclude the items to which this regulation relates.

Maternity needs

6.—(1) Where—

- (a) a member of the assessment unit is affected by a trade dispute and has already been so affected for a continuous period of not less than 11 weeks; and
- (b) a member of the assessment unit either is pregnant and in the expected week of confinement or has given birth after the period mentioned in sub-paragraph (a) has already continued for at least 11 weeks,

there shall, subject to regulation 3(3), be applicable to the claimant under paragraph 2 of Schedule 1 as an item of additional requirements the cost of such items as are necessary to meet the immediate needs of the child, other than any item to which Article 3(3) (exclusion of medical, etc., requirements) applies.

(2) Paragraphs (2) to (4) of regulation 7 (maternity needs) of, and Schedule 1 (bedclothes) and Part VI of Schedule 2 (baby clothing) to, the Supplementary Benefit (Single Payments) Regulations (Northern Ireland) 1980(g) shall apply for the purposes of determining—

- (a) the items to which paragraph (1) shall apply; and
- (b) the amounts applicable for those items (including any reduction in those amounts in respect of maternity grant paid under the Social Security (Northern Ireland) Act 1975(h)).

Essential household equipment

7.—(1) Where the conditions in paragraph (2) are satisfied there shall, subject to regulation 3(3), be applicable to the claimant under paragraph 2 of Schedule 1 as an item of additional requirements an amount determined in accordance with paragraph (3).

(2) The conditions mentioned in paragraph (1) are that—

- (a) a member of the assessment unit is affected by a trade dispute;
- (b) an item of essential household equipment has broken down and is in need of repair or a fireguard is needed.

(f) S.I. 1972/1265 (N.I. 14)

(g) S.R. 1980 No. 363

(h) 1975 c. 15

(3) The amount mentioned in paragraph (1) shall be—

(a) where immediate repairs are practicable and the cost would not exceed the cost, otherwise than by hire purchase, of replacement or substitution under sub-paragraph (b), the reasonable cost of essential repairs; and

(b) where sub-paragraph (a) does not apply, the cost—

(i) where a substitute is needed (for example, a space heater where central heating has broken down in cold weather), of providing the substitute, and

(ii) where head (i) does not apply, of replacing (including, in the case of a fireguard, providing) the item,

the replacement or substitute to be a reconditioned item if available, and otherwise a second-hand item, of the minimum standard needed so however that if neither is available the amount mentioned in paragraph (1) shall be the necessary cost, calculated on a weekly basis, of the acquisition, through hire purchase if available, of the item.

(4) In this regulation “essential household equipment” means equipment essential to the health or safety of the assessment unit which is required for the purpose only of cooking or space heating (including fireguards).

Visits in cases of illness

8.—(1) Where a member of the assessment unit is affected by a trade dispute there shall, subject to regulation 3(3), be applicable to the claimant under paragraph 2 of Schedule 1 as an item of additional requirements the cost, calculated on a weekly basis, of travelling expenses within Northern Ireland incurred in connection with visits made, in cases of illness, by a member of the assessment unit and also, where the visitor is not affected by a trade dispute and is incapable of undertaking the journey alone and needs to be accompanied, by a companion (whether or not also a member of the unit), to a person, other than a patient, who is critically ill and who is a close relative of, or was prior to his illness a member of the same household as, the visitor.

(2) The amount applicable in a case to which paragraph (1) applies shall be—

(a) the cost of second-class public transport by whichever method, excluding air travel is used;

(b) where private transport is used—

(i) where public transport is available, the cost of the petrol not exceeding the public transport cost,

(ii) in any other case, the cost of petrol,

except that no amount shall be allowed under this paragraph in respect of journeys undertaken by taxi unless the person concerned is unable to use other transport by reason of physical disability.

(3) Where in a case to which paragraph (1) applies the circumstances are such that—

(a) a return journey in one day is impracticable (for example on the grounds of distance);

(b) return on the day later than the second day is reasonable in order to allow for an extended visit,

the amount applicable under paragraph (2) shall be increased to cover the cost of one night's lodging or, in a case to which sub-paragraph (b) of this paragraph applies, lodging for the number of days which is reasonable, in either case including any charge for breakfast only if that charge is inclusive and inseparable.

(4) In this regulation “patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution.

Payment in urgent cases of pension or allowance which would otherwise not be made under Article 6(1)(b) of the No. 2 Order

9. Article 6(1)(b) of the No. 2 Order (payment of pension or allowance not to be made in trade dispute cases if weekly rate £12 or less and, if more than £12, at a weekly rate equal to difference) shall not apply in relation to any part of a payment by way of a pension or allowance which is payable in consequence of the application of any of regulations 4 to 8 but only in relation to the balance (if any) of the payment.

Circumstances in which benefit in urgent cases is not to be recovered

10. The benefit officer shall determine that any sum paid to a person by virtue of this Part, other than regulation 4 (which applies, in relation to emergency relief, the provisions for recovery under Part V of the regulations mentioned in that regulation), is not to be recovered in pursuance of Article 6(2).

PART III

DISREGARD OF AN AMOUNT OF SPECIFIED PAYMENTS

Disregard of an amount of specified payments

11.—(1) For the purposes of determining entitlement to and the amount of any supplementary benefit (and notwithstanding the provisions of Article 6(1)(a) of the No. 2 Order for certain payments not to be disregarded in trade dispute cases) there shall in the calculation of the weekly amount of the resources of a person who is affected by a trade dispute for any period be disregarded any specified payment of his for that period or any part of it, calculated in accordance with the Resources Regulations, up to the amount of the specified sum so however that where more than one member of the assessment unit is affected by a trade dispute the maximum weekly amount to be so disregarded in respect of the aggregate of their specified payments shall be limited to the amount of the specified sum.

(2) In this regulation—

- (a) “specified payment” means, in relation to a person and a period, any payment which the person receives or is entitled to obtain from a trade union by reason of his being without employment for that period;
- (b) “specified sum” means the sum of £12 specified in paragraph (1)(b) of Article 6 of the No. 2 Order or, if by virtue of paragraph (2) or (3) of that Article another sum is for the time being mentioned in paragraph (1)(b) of that Article, that other sum.

PART IV

RECOVERY BY DEDUCTIONS FROM EARNINGS

Recovery by deductions from earnings

12.—(1) Any sum paid to a person on an award of supplementary benefit made to him by virtue of Article 13(1) (benefit paid after return to full-time employment following trade dispute) shall be recoverable from him in accordance with this Part.

(2) In this Part—

- “available earnings” means the earnings which remain payable to a claimant on any pay-day after deduction by his employer of all amounts lawfully deductible by the employer otherwise than by virtue of a deduction notice;
- “claimant” means a person to whom an award of supplementary benefit is made by virtue of Article 13(1);
- “deduction notice” means a notice under regulation 14 or 19;

“employment” means employment (including employment which has been suspended but not terminated) in remunerative full-time work, and related expressions shall be construed accordingly;

“notification of award” means a notice under regulation 13(1)(b);

“pay-day” means an occasion on which earnings are paid to a claimant;

“protected earnings” means protected earnings as determined by a benefit officer, in accordance with regulation 13(2), under regulation 13(1)(a) or 18;

“recoverable amount” means the amount (determined in accordance with regulation 14(3) or (5) or regulation 19(2)(a)) by reference to which deductions are to be made by an employer from a claimant’s earnings by virtue of a deduction notice;

“repaid by the claimant” means paid by the claimant directly to the Department by way of repayment of supplementary benefit otherwise recoverable under this Part.

(3) Any notice or other document required or authorised to be given or sent to any person under the provisions of this Part shall be deemed to have been given or sent if it was sent by post to that person in accordance with paragraph (6) of regulation 21 where that regulation applies and, in any other case, at his ordinary or last known address or in the case of an employer at the place of business where the claimant to which it relates is employed, and if so sent to have been given or sent on the day on which it was posted.

Notification of award

13.—(1) Where a benefit officer determines that a person claiming supplementary benefit is entitled by virtue of Article 13(1) (return to full-time employment following trade dispute) and makes an award to him accordingly he shall—

- (a) determine the claimant’s protected earnings (that is to say the amount below which his actual earnings must not be reduced by any deduction made under this Part); and
- (b) give to the claimant and to the Department notice in writing—
 - (i) stating that he has made an award of supplementary benefit to the claimant as a person entitled by virtue of Article 13(1) and that accordingly any sum paid to him on that award will be recoverable from him as provided in this Part,
 - (ii) specifying the amount of supplementary benefit so awarded to the claimant and his protected earnings, and
 - (iii) stating the claimant’s duty under regulation 22 (duty to give notice of cessation or resumption of employment).
- (2) The protected earnings of the claimant shall be the sum determined by—
 - (a) taking the weekly amount of his normal and housing requirements determined as for the purposes of Schedule 1;
 - (b) adding £8·00; and
 - (c) subtracting from the result the aggregate weekly amount of any child benefit which falls to be taken into account in calculating his resources for the purposes of Schedule 1,

and references in sub-paragraphs (a) and (c) to the requirements and resources of the claimant include those of any other person which are aggregated with and treated as his by virtue of paragraph 3 of Schedule 1.

Service and contents of deduction notices

14.—(1) Where the Department receives a notification of award and the amount of supplementary benefit there specified as having been awarded has not already been repaid by the claimant, the Department shall serve a deduction notice on the employer of the claimant.

(2) A deduction notice shall contain the following particulars—

- (a) particulars enabling the employer to identify the claimant;
- (b) the recoverable amount;
- (c) the claimant's protected earnings as specified in the notification of award.

(3) Subject to paragraph (5) the recoverable amount shall be—

- (a) the amount specified in the notification of award as having been awarded to the claimant by way of supplementary benefit; reduced by
- (b) the amount (if any) which has been repaid by the claimant before the date of the deduction notice.

(4) If while a deduction notice continues to have effect the Department receives a further notification of award relating to the claimant, he shall cancel the deduction notice (giving written notice of the cancellation to the employer and the claimant) and serve on the employer a further deduction notice.

(5) The recoverable amount to be specified in the further deduction notice shall be the sum of—

- (a) the amount determined by applying paragraph (3) to the further notification of award; and
- (b) the recoverable amount specified in the cancelled deduction notice less any part of that amount which before the date of the further notice has already been deducted by virtue of the cancelled notice or repaid by the claimant.

Period for which deduction notice has effect

15.—(1) A deduction notice shall come into force when it is served on the employer of the claimant to whom it relates and shall cease to have effect as soon as any of the following conditions is fulfilled—

- (a) the notice is cancelled by virtue of regulation 14(4) or paragraph (2) of this regulation;
- (b) the claimant ceases to be in the employment of the person on whom the notice was served;
- (c) the aggregate of—
 - (i) any part of the recoverable amount repaid by the claimant on or after the date of the deduction notice, and
 - (ii) the total amount deducted by virtue of the notice,

reaches the recoverable amount;

(d) there has elapsed a period of 26 weeks beginning with the date of the notice.

(2) The Department may at any time give a direction in writing cancelling a deduction notice and—

- (a) it shall cause a copy of the direction to be served on the employer concerned and on the claimant;
- (b) the direction shall take effect when a copy of it is served on the employer concerned.

Effect of deduction notice

16.—(1) While a deduction notice is in force the following provisions of this regulation shall apply as regards any relevant pay-day.

(2) Where a claimant's earnings include any bonus, commission or other similar payment which is paid other than on a day on which the remainder of his earnings is paid, then in order to calculate his available earnings for the purposes of this regulation any such bonus, commission or other similar payment shall be treated as being paid to him on the next day of payment of the remainder of his earnings instead of on the day of actual payment.

(3) If on a relevant pay-day a claimant's available earnings—

- (a) do not exceed his protected earnings by at least £1, no deduction shall be made;
- (b) do exceed his protected earnings by at least £1, his employer shall deduct from the claimant's available earnings one half of the excess over his protected earnings,

so however that where earnings are paid other than weekly the amount of the protected earnings and the figure of £1 shall be adjusted accordingly, in particular—

- (c) where earnings are paid monthly, they shall for this purpose be treated as paid every five weeks (and the protected earnings and the figure of £1 accordingly multiplied by five);
- (d) where earnings are paid daily, the protected earnings and the figure of £1 shall be divided by five,

and if, in any case to which sub-paragraph (c) or (d) does not apply, there is doubt as to the adjustment to be made this shall be determined by the Department on the application of the employer or the claimant.

(4) Notwithstanding anything in paragraph (3)—

- (a) the employer shall not make a deduction on a relevant pay-day if the claimant satisfies him that up to that day he has not obtained payment of the supplementary benefit to which the deduction notice relates;
- (b) the employer shall not on any relevant pay-day deduct from the claimant's earnings by virtue of the deduction notice an amount greater than the excess of the recoverable amount over the aggregate of all such amounts as, in relation to that notice, are mentioned in regulation 15(1)(c)(i) and (ii); and
- (c) where the amount of any deduction which by this regulation the employer is required to make would otherwise include a fraction of 1p, that amount shall be reduced by that fraction.

(5) For the purpose of this regulation "relevant pay-day" means any pay-day beginning with—

- (a) the first pay-day falling after the expiration of the period of one month from the date on which the deduction notice comes into force; or
- (b) if the employer so chooses, any earlier pay-day after the notice has come into force.

Increase of amount of award on appeal or review

17. If, after the Department has received a notification of award, the amount of the award which was the subject of the notification is increased, whether on appeal under Article 20 or 20A or on review by a benefit officer pursuant to Article 19(2)(d), this Part shall have effect as if on the date of notification the Department had received a further notification of award which specified—

- (a) the amount of the increase as the recoverable amount; and
- (b) the claimant's protected earnings as those specified in the last notification of award relating to him which was received by the Department or as subsequently reviewed under regulation 18.

Review of determination of protected earnings

18.—(1) A determination of a claimant's protected earnings whether made under regulation 13(1)(a) or under this regulation, may be reviewed by a benefit officer if he is satisfied that it was based on a mistake as to the law or was made in ignorance of, or was based on a mistake as to, some material fact.

(2) Where on review under paragraph (1) a benefit officer revises a claimant's protected earnings he shall thereupon give or send to the claimant and to the Department notice in writing of the review specifying the revised amount of the protected earnings.

(3) Where the Department receives notice under paragraph (2) from the benefit officer it shall thereupon give the employer written notice varying the deduction notice by substituting for the amount of the protected earnings as there specified (or as previously reviewed under this regulation) the amount of the protected earnings as specified in the notice under paragraph (2).

(4) Variation of a deduction notice under paragraph (3) shall take effect either from the end of the period of 10 working days beginning with the day on which notice of the variation is given to the employer or, if the employer so chooses, at any earlier time after notice is given.

Power to serve further deduction notice on resumption of employment

19.—(1) Where a deduction notice has ceased to have effect by reason of the claimant ceasing to be in the employment of the person on whom the notice was served, the Department may, if it thinks fit, serve a further deduction notice on any person by whom the claimant is for the time being employed.

(2) Notwithstanding anything in the foregoing provisions of these regulations, in any such deduction notice—

(a) the recoverable amount shall be equal to the recoverable amount as specified in the previous deduction notice less the aggregate of—

(i) the total of any amounts required to be deducted by virtue of that notice, and

(ii) any additional part of that recoverable amount repaid by the claimant on or after the date of that notice,

or, where this regulation applies in respect of more than one such previous notice, the aggregate of the amounts as so calculated in respect of each such notice;

(b) the amount specified as the claimant's protected earnings shall be the same as that so specified in the last deduction notice relating to him which was previously in force or as subsequently reviewed under regulation 18.

Right of the Department to recover direct from claimant

20. Where the Department has received a notification of award and it is at any time not practicable for it, by means of a deduction notice, to effect recovery of the recoverable amount or of so much of that amount as remains to be recovered from the claimant, the amount which remains to be recovered shall, by virtue of this regulation, be recoverable from the claimant by the Department.

Duties and liabilities of employers

21.—(1) An employer shall keep a record of the available earnings of each claimant who is an employee in respect of whom a deduction notice is in force and of the payments which he makes in pursuance of the notice.

(2) A record of every deduction made by an employer under a deduction notice on any pay-day shall be given or sent by him to the Department, together with payment of the amount deducted, by not later than the 19th day of the following month.

(3) Where by reason only of the circumstances mentioned in regulation 16(4)(a) the employer makes no deduction from a claimant's weekly earnings on any pay-day he shall within 10 working days after that pay-day give notice of that fact to the Department.

(4) Where a deduction notice is cancelled by virtue of regulation 14(4) or 15(2) or ceases to have effect by virtue of regulation 15(1) the employer shall within 10 working days after the date on which the notice is cancelled or, as the case may be, ceases to have effect—

(a) return the notice to the Department and, where regulation 15(1) applies, give notice of the reason for its return;

(b) give notice, in relation to each relevant pay-day (as defined in regulation 16(5)), of the available earnings of the claimant and of any deduction made from those earnings.

(5) If on any pay-day to which regulation 16(3)(b) applies the employer makes no deduction from a claimant's available earnings, or makes a smaller deduction than he was thereby required to make, and in consequence any amount is not deducted while the deduction notice, or any further notice which under regulation 14(4) cancels that notice, has effect—

(a) the amount which is not deducted shall be recoverable from the employer by the Department; and

(b) any amount so recovered shall, for the purposes of these regulations, be deemed to have been repaid by the claimant.

(6) All records and notices to which this regulation applies shall be given or sent to the Department, on a form approved by it, at such office of the Department as it may direct.

Claimants to give notice of cessation or resumption of employment

22.—(1) Where a claimant ceases to be in the employment of a person on whom a deduction notice relating to him has been duly served knowing that the full amount of the recoverable amount has not been deducted from his earnings or otherwise recovered by the Department, he shall give notice within 10 working days to the Department of his address and of the date of such cessation of employment.

(2) Where on or after such cessation the claimant resumes employment (whether with the same or some other employer) he shall within 10 working days give notice to the Department of the name of the employer and of the address of his place of employment.

Transitional provision

23.—(1) Notwithstanding the amendment of Article 13 of, and the repeal of Schedule 2 to, the Order by the Social Security (Northern Ireland) Order 1980(i), the repealed provisions shall continue to have effect until the 31st March 1981 in relation to the recovery of any sum paid to a person on an award of supplementary benefit made to him (whether before or after the coming into operation of this regulation) by virtue of Article 13(1), but with the following modifications—

(a) for all references to the Commission there shall be substituted references to a benefit officer; and

(b) paragraph (2) of regulation 13 shall apply for the purposes of any determination, including a determination on review, of the amount of a person's protected earnings but as if in sub-paragraph (b) of that paragraph "£3·00" were substituted for "£8·00".

(2) Where a deduction notice served under the repealed provisions is in force on 31st March 1981 the repealed provisions shall continue to have effect, as modified by paragraph (1), until the notice ceases to have effect under those provisions.

(3) Subject to paragraphs (1) and (2), this Part shall apply for the purpose of the recovery of any amount of supplementary benefit recoverable but not recovered pursuant to the repealed provisions.

(4) In this regulation "the repealed provisions" mean—

- (a) Article 13 of, and Schedule 2 to, the Order as in force immediately before the amendment of that Article and the repeal of that Schedule by Articles 7(1) and 16 of, and paragraph 9 of Part I of Schedule 2 and Part II of Schedule 4 to, the Social Security (Northern Ireland) Order 1980; and
- (b) the Supplementary Benefit (Recovery by Deductions from Earnings) Regulations (Northern Ireland) 1972(j).

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 18th November 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 make provision for certain aspects of the payment and recovery of supplementary benefit under the Supplementary Benefits (Northern Ireland) Order 1977 ("the 1977 Order"), as extensively amended by the Social Security (Northern Ireland) Order 1980 and as subject to the Social Security (No. 2) (Northern Ireland) Order 1980 ("the No. 2 Order"), in cases where a member of the supplementary benefit assessment unit is, or the claimant has been, affected by a trade dispute. The regulations come into operation on 24th November 1980 except for regulations 12 to 22, which come into operation on 1st April 1981.

Part I contains general provisions relating to citation and commencement (regulation 1) and to interpretation (regulation 2).

Part II makes provision for supplementary benefit in urgent trade dispute cases (the Supplementary Benefit (Urgent Cases) Regulations (Northern Ireland) 1980 not applying in trade dispute cases). Regulation 3 contains general provisions relating to Part II, in particular for amounts not to be applicable under regulations 5 to 8 where there is certain disregarded capital or disregarded income. Regulation 4 provides for the claimant to be entitled to benefit in emergency relief cases if, but for the trade dispute, he would have been so entitled under the Urgent Cases Regulations. Regulations 5 to 8 provide for amounts to be applicable for additional requirements in trade dispute cases in respect of dietary requirements (regulation 5), maternity needs (regulation 6), essential household equipment (regulation 7) and visits in cases of illness (regulation 8). Regulation 9 provides for the payment, or part-payment, in urgent cases of a supplementary pension or allowance where payment would otherwise, by reason of Article 6(1)(b) of the No. 2 Order, not be made and regulation 10 for the circumstances in which benefit paid in consequence of Part II of the regulations is not to be recovered.

Part III provides for the disregard of payments which a person receives or is entitled to obtain from a trade union by reason of being without employment up to the amount of the sum, for the time being specified in Article 6(1)(b) of the No. 2 Order.

Part IV makes provision, pursuant to Article 13(2) of the 1977 Order, for recovery by deductions from earnings of supplementary benefit paid to a claimant after his return to full-time employment following a trade dispute. The provisions replace, with many revisions, those made by and under Article 13 of, and Schedule 2 to, the 1977 Order prior to its amendment by the Social Security (Northern Ireland) Order 1980. Regulation 12 makes general provision, including definitions, for Part IV. Regulation 13 provides for a benefit officer to determine the claimant's protected earnings and to give to the claimant and to the Department a notification of award. Regulation 14 provides for the Department, on receipt of a notification of award, to serve a deduction notice on the employer of the claimant and for the contents of the notice, including particulars of the amount recoverable under the notice, and regulation 15 for the period for which the deduction notice has effect. Regulation 16 makes provision for the effect of a deduction notice including the deductions to be made by the employer on any relevant pay-day of the claimant (in particular to make no deduction where the claimant's available earnings, as defined, are less than £1.00 above his protected earnings and otherwise to deduct one half of the excess of available over protected earnings). Regulation 17 provides for the application of Part IV where the amount of the supplementary benefit award is increased on appeal or review and regulation 18 for review by a benefit officer of a determination of

protected earnings. Regulation 19 provides for service of a further deduction notice on resumption of employment by the claimant and regulation 20 for the Department to be able to recover directly from the claimant where recovery by means of deduction notice is not practicable. Regulation 21 provides for the duties and liabilities of employers, in particular as to the keeping of records and the liability where there is a failure to make a deduction while a deduction notice has effect, and regulation 22 for claimants to give notice of cessation or resumption of employment (failure to comply with provisions requiring notice to be given is an offence under Article 30(1) of the 1977 Order). Regulation 23 makes transitional provision, in particular for the application, up to 31st March 1981, of the provisions for recovery under the 1977 Order as in force prior to amendment by the Social Security (Northern Ireland) Order 1980.