

1981 No. 241

SUPPLEMENTARY BENEFITS

**The Supplementary Benefit (Requirements and Resources)
(Amendment) Regulations (Northern Ireland) 1981**

<i>Made</i>	15th July 1981
<i>Coming into operation</i>	27th July 1981

The Department of Health and Social Services, in exercise of the powers conferred on it by paragraphs 1(2) and 2(1) and (4) of Schedule 1 to the Supplementary Benefits (Northern Ireland) Order 1977(a) and of all other powers enabling it in that behalf, and with the consent of the Department of Finance(b), hereby makes the following regulations which correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and which accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980(c) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

Citation and commencement

1. These regulations may be cited as the Supplementary Benefit (Requirements and Resources) (Amendment) Regulations (Northern Ireland) 1981 and shall come into operation on 27th July 1981.

Amendment of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980

2.—(1) This regulation shall amend the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980(d).

(2) In regulation 2(1) (interpretation) in the definition of “prisoner”, for the words from “a person” to the end there shall be substituted “any person whose detention in a prison, remand centre or young offenders centre is for the time being authorised by law;”.

(3) In regulation 5 (normal requirements of relevant persons and householders) after paragraph (1) there shall be inserted the following paragraphs—

“(1A) Paragraph 1 of the Table (long-term rate for couples) shall have effect as if in the second column—

(a) after “The aggregate of the” there were inserted “higher of the two”; and

(b) after “Social Security Pensions (Northern Ireland) Order 1975 and” there were inserted “of the sum for the time being specified in”.

(1B) Paragraph 3 of the Table (long-term rate for householders) shall have effect as if in the second column for “The sum” there were substituted “The higher of the two sums”.

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- (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) See Article 41(1) of the Supplementary Benefits (Northern Ireland) Order 1977, as amended by the Social Security (Northern Ireland) Order 1980
- (c) 1980 c. 30
- (d) S.R. 1980 No. 347; the relevant amending regulations are S.R. 1980 No. 422

(4) In regulation 8 (modification of normal requirements in certain cases of actual or notional unemployment benefit disqualification)—

(a) in sub-paragraph (c) of paragraph (2) after “by 40 per cent.” there shall be added “of the ordinary rate for the time being specified in the said sub-paragraph (b)”;

(b) in sub-paragraph (b) of paragraph (4)—

(i) for “a claim” there shall be substituted “the claim”, and

(ii) the words from “in respect of” to “question” shall be omitted.

(5) In regulation 9 (modification of normal requirements of boarders)—

(a) in sub-paragraph (a) of paragraph (1) for “paragraphs (6) and (7)” there shall be substituted “paragraph (7)”;

(b) after paragraph (1) there shall be inserted the following paragraphs—

“(1A) Where any part of the amount for board and lodging is met by a rent allowance under Article 59 of the Rent (Northern Ireland) Order 1978(a) an amount equal to the part so met shall be deducted from the aggregate amount applicable under paragraph (1).

(1B) Where an award is to be made in respect of a period of less than one week, pursuant to regulation 6(2)(b) of the Supplementary Benefit (Determination of Questions) Regulations (Northern Ireland) 1980(b) the requirements applicable to the claimant under this regulation shall include the weekly amount to which paragraph (1)(a) applies if the weekly charge for board and lodging falls due during that period.”;

(c) after “pursuant to” in both paragraphs (3)(a) and (8) there shall be inserted “paragraph 1(a) or 3(a) of the Table or to”;

(d) in sub-paragraph (d) of paragraph (4)—

(i) for “either of the following conditions” there shall be substituted “any one or more of the following conditions”.

(ii) after head (iv) there shall be inserted the following heads—

“(v) he is a person suffering from a mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961(c) in respect of whom a Health and Social Services Board has, pursuant to Article 7 or 36(1)(b) or (c) of the Health and Personal Social Services (Northern Ireland) Order 1972(d) (prevention, care and after-care), made arrangements for the provision of residential accommodation in a private household or premises which are not required to be registered under Schedule 5 to the said Order of 1972,

(vi) he is a person who is resident in premises which are used for the rehabilitation of alcoholics or drug addicts.”;

(e) paragraph (6) and sub-paragraph (a) of paragraph (9) shall be omitted;

(f) in paragraph (9)(b), after head (iii), for “on” the first time that it occurs there shall be substituted “or”.

(6) In regulation 10 (modification of normal requirements in special cases)—

(a) in paragraph (2) after “of the Table” the word “and” shall be omitted and there shall be inserted “, regulation 9 and paragraphs”;

(b) in paragraph (3A)—

(i) the words “to whom paragraph 2 of Schedule 2 (patients) applies” shall be omitted; and

(a) S.I. 1978/1050 (N.I. 20)

(b) S.R. 1980 No. 423

(c) 1961 c. 15

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

- (ii) for the words from “, the amount” to the end of the paragraph there shall be substituted “and—
- (a) he is a person staying in accommodation provided as mentioned in either of sub-paragraphs (a) or (b) of paragraph (4), and paragraph 1 of Schedule 2 (residential accommodation) does not apply to him by reason only that his stay in that accommodation has not, in the opinion of the benefit officer, become other than temporary; or
- (b) he is a person to whom paragraph 2 of Schedule 2 (patients) applies, the amount applicable for his normal requirements may be increased to take account of the retaining fee.”
- (7) In paragraph (2) of regulation 12 (heating)—
- (a) for sub-paragraph (d) there shall be substituted the following sub-paragraph—
- “(d) where—
- (i) an item in column (1) of paragraph 1 applies in respect of more than one member of an assessment unit, only one amount shall be applicable in respect of that item,
- (ii) more than one of the items in column (1) of paragraphs 1 and 2 applies in respect of a member, or members, of an assessment unit, the amount applicable to the claimant under both of those paragraphs shall be the amount specified in column (2) of paragraph 1(2);”;
- (b) in head (ii) of sub-paragraph (g) after “part only” there shall be inserted “or none”;
- (c) after sub-paragraph (h) there shall be added the following sub-paragraph—
- “(i) where column (1) of paragraph 6 applies in respect of more than one member of an assessment unit an amount shall be applicable to the claimant under column (2) of that paragraph in respect of each such member.”.
- (8) In regulation 14 (housing requirements)—
- (a) in paragraph (3)(a) after head (iv) there shall be added the following head—
- “(v) which he in practice shares with one or more other members of the household, not being close relatives of his, at least one of whom is responsible under one of the preceding heads of this sub-paragraph, and for which the benefit officer is satisfied that it is reasonable in the circumstances to treat him as sharing responsibility;”;
- (b) in paragraph (5)—
- (i) in sub-paragraph (a) “or 6” shall be omitted,
- (ii) in sub-paragraph (b) after “to whom” there shall be inserted “regulation 9 or”, and for “, 6 and 7” there shall be substituted “and 6 to 8”,
- (iii) after sub-paragraph (c) there shall be added the following sub-paragraph—
- “(d) to whom paragraph 6 of Schedule 2 (prisoners) applies, except that this sub-paragraph shall not apply in the case of any person remanded in custody or committed in custody for trial or to be sentenced.”.
- (9) In regulation 15 (rent); in paragraph (7)—
- (a) in sub-paragraph (c) after “purchase” there shall be inserted “annuity”;
- (b) after sub-paragraph (c) there shall be added the following sub-paragraph—
- “(d) by way of mesne profits.”.

(10) In regulation 19 (miscellaneous outgoings) in paragraph (g) for “mentioned in the preceding paragraphs” there shall be substituted “mentioned in this Part”.

(11) In paragraph (5) of regulation 20 (special cases)—

(a) in sub-paragraph (b) the words “, other than the Northern Ireland Housing Executive” shall be omitted;

(b) for the words from “be increased up to a maximum” to “otherwise be applicable” there shall be substituted “be increased—

(i) in a case where the landlord is the Northern Ireland Housing Executive, up to a maximum of twice the amount which would otherwise be applicable,

(ii) in any other case, up to a maximum of 4 times that amount.”.

(12) In paragraph (5) of regulation 22 (reduction in amounts applicable for certain occupants of the home)—

(a) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) in respect of a non-dependant who is giving residential assistance in respect of which an amount under paragraph 14(1) of column (2) of Schedule 3 (additional requirements, domestic assistance) either is applicable or would be applicable—

(i) but for the application of regulation 13(3) (member of the assessment unit affected by a trade dispute), or

(ii) if the assistance given by the non-dependant were not provided by a Health and Social Services Board;”;

(b) after sub-paragraph (b) there shall be added the following sub-paragraph—

“(c) in respect of a non-dependant or group of non-dependants—

(i) whose usual home is, in the opinion of the benefit officer, elsewhere, and

(ii) in respect of whom an amount under regulation 23 (non-householder’s contribution) is not applicable.”.

(13) In Schedule 2 (modification of normal requirements in special cases)—

(a) in column (3) of paragraph 1(b) for “the sum” there shall be substituted “the higher of the two sums”;

(b) in column (3) of paragraph 2 for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) 40 per cent. of the long-term rate for householders plus, if he has a dependant, the amount of the increase specified in sub-paragraph (c) in this column;”.

(14) In Schedule 3 (additional requirements) in column (1) of paragraph 3 for “living and dining” there shall be substituted “living or dining”.

Amendment of the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1980

3.—(1) This regulation shall amend the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1980(a).

(a) S.R. 1980 No. 348; the relevant amending regulations are the Supplementary Benefit (Aggregation, Requirements and Resources) (Amendment) Regulations (Northern Ireland) 1980 (S.R. 1980 No. 422)

(2) In regulation 2 (interpretation)—

(a) in paragraph (1), in the definition of “student”—

(i) for “left school” there shall be substituted “ceased relevant education”,

(ii) for “including” there shall be substituted “and he shall be deemed to be a student during”;

(b) after paragraph (3) there shall be added the following paragraph—

“(4) Any reference in these regulations—

(a) to the fostering of a child is a reference to the fostering of a child or any other person to whom and in circumstances to which regulation 4(2)(e) or (f) of the Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1980(a) (child or person in relevant education boarded out by a Health and Social Services Board or voluntary organisation or in care and possession of prospective adoptive parent) applies;

(b) to a payment by or derived from a liable relative shall not include a reference to a payment derived from the estate of a deceased liable relative.”.

(3) In regulation 3 (calculation of resources), in paragraph (2)(d)(i) for the words from “to which regulation 9(2)(c)” to the end there shall be substituted “in which it is received”.

(4) In regulation 4 (notional resources)—

(a) in paragraph (3) (resources not yet paid) for the reference to “Paragraph (2)” there shall be substituted a reference to “Paragraph (2)(b)”;

(b) in paragraph (7) (discretionary trusts) the words from “, unless that person is a dependant” to the end shall be omitted;

(c) after paragraph (7) there shall be inserted the following paragraph—

“(7A) A person shall not be treated as possessing a resource pursuant to paragraph (7) if the trust funds are derived from a payment, whether in pursuance of a court order or otherwise, in consequence of a personal or criminal injury to that person, except that if that person is a claimant or the partner of a claimant this paragraph shall apply only for the period, not normally exceeding 12 months from the date on which the payment would, but for this paragraph, fail to be taken into account for the purposes of a claim for supplementary pension or allowance or a review of a determination pursuant to regulations made under Article 19(2)(d), for which, having regard to the intentions of the trustees, it is reasonable that he shall not be treated as so possessing a resource.”;

(d) in paragraph (9) (seasonal workers), at the end there shall be added “but as if the definition of employment in that regulation included a reference to employment as a self-employed earner”;

(e) in paragraph (11) (assumed letting income) for “Where a person owns any land, in whole or part,” there shall be substituted “Where a person has an estate in any land,”.

(5) In regulation 10 (calculation of earnings), in paragraph (1)—

(a) in sub-paragraph (i), the words “and in this sub-paragraph” to the end shall be omitted;

(b) for sub-paragraph (k) there shall be substituted the following sub-paragraph—

“(k) in respect of a person who is without employment for any period in circumstances in which Article 12(1) and (2) (persons affected by trade disputes) applies—

(a) S.R. 1980 No. 330; the relevant amending regulations are the Supplementary Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 1981 (S.R. 1981 No. 215)

- (i) where he receives earnings to which regulation 9(1)(b) of the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1980(a) (effect of last earnings from remunerative full-time work) applies and those earnings are more than the amount equal to twice the requirements which would (but for Article 12) be applicable to the assessment unit, for the first week in which, pursuant to that regulation 9(1)(b), he is not treated as being in remunerative full-time work, the difference between those earnings and that amount,
- (ii) any sum or payment to which paragraph (2)(b) or (d) would, but for this sub-paragraph, apply.”.
- (6) In regulation 11 (calculation of other income)—
- (a) in paragraph (2)—
- (i) in sub-paragraph (a), the words from “any payment made” to “1975(h) and” shall be omitted,
- (ii) in sub-paragraph (1), after “authority” there shall be inserted “, including any part which is paid in respect of a partner or dependant under paragraph 22 of Schedule 8 to the Students Awards Regulations (Northern Ireland) 1980(b), but excluding a grant or award referred to in paragraph (4)(d)(ii) of this regulation”,
- (iii) in sub-paragraph (n), there shall be added at the end “except that, if such capital, were it not so disregarded, would fall to be disregarded under regulation 6(2), paragraph (4)(1) shall apply to any such income and this sub-paragraph shall not apply”;
- (b) in paragraph (4)—
- (i) for sub-paragraph (d)(ii) there shall be substituted the following head—
- “(ii) to a student, in respect of a partner or dependant living outside the United Kingdom and maintained by that student, under paragraph 22 of Schedule 8 to the Students Awards Regulations (Northern Ireland) 1980;”,
- (ii) for sub-paragraph (e) there shall be substituted the following sub-paragraph—
- “(e) any payment made in respect of a person in relevant education under section 81(c) of the Education Act 1944(c), or section 2(1) of the Education Act 1962(d), or section 49(1) of the Education (Scotland) Act 1980(e), or Article 39(3) or 43 of the Education and Libraries (Northern Ireland) Order 1972(f) (payments by education authorities to persons over compulsory school age) to the extent only that it does not exceed, in the case of a person attending a school, £7.50 weekly, and in any other case, £9.50 weekly, the amount of any excess being taken into account in full;”,
- (iii) in sub-paragraph (g) the words “and in this sub-paragraph” to the end shall be omitted,
- (iv) in sub-paragraph (i) for “to the extent that” to the end there shall be substituted “except that, if such payment exceeds £20, the amount of the excess shall be taken into account in full;”,

(a) S.R. 1980 No. 416; the relevant amending regulations are S.R. 1981 No. 215

(b) S.R. 1980 No. 253

(c) 1944 c. 31

(d) 1962 c. 12

(e) 1980 c. 44

(f) S.I. 1972/1263 (N.I. 12)

- (v) in sub-paragraph (j), for "a television licence" to the end there shall be substituted "the provision of either a leisure or amenity item or an item for which provision is not made in the amount applicable for normal requirements and in respect of which, in the determination of the claimant's additional or housing requirements, either—
- (i) no amount is applicable, or
 - (ii) an amount is applicable but the payment is for an item of which the cost is in excess of that amount, and in a case to which head (ii) applies only the amount of the difference between the amount applicable and the amount used shall be disregarded under this sub-paragraph;"
- (c) in paragraph (5)(c), for the reference to "regulation 6(1)(a)(i) or (ii)" there shall be substituted a reference to "regulation 6(1)(a)(ii)".

Revocation

4. Paragraph 7(a) of the Schedule to the Supplementary Benefit (Aggregation, Requirements and Resources) (Amendment) Regulations (Northern Ireland) 1980(a) (amendment of regulation 12(2)(d) of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980) is hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 15th July 1981.

(L.S.)

T. S. Martin

Assistant Secretary

The Department of Finance for Northern Ireland hereby consents to the foregoing regulations.

Sealed with the Official Seal of the Department of Finance for Northern Ireland on 16th July 1981.

(L.S.)

Harold Carson

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the regulations made under the Supplementary Benefits (Northern Ireland) Order 1977 ("the Order") (as amended by the Social Security (Northern Ireland) Order 1980) which govern the determination of requirements and resources.

Regulation 2 amends the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980. In regulation 2 of those regulations the definition of "prisoner" is amended to exclude persons who would otherwise be "patients". Regulation 5 is amended to modify further the Table in Schedule 1 to the Order. Regulation 8 (modification of normal requirements in certain cases of actual or notional unemployment benefit disqualification) is amended in particular to provide for the personal expenses of boarders to be reduced by 40 per cent. of the ordinary rate of normal requirements for single persons. Regulation 9 is amended to abolish the special provisions for calculating the modified normal requirements of residents in Abbeyfield Homes, to provide for abatement of the amount for board and lodging by the amount of any rent allowance payable to the claimant, and for payment of the weekly charge for board and lodging when it falls due while the claimant is entitled to benefit for part of a week, and to increase the maximum amount for board and lodging in respect of persons in certain types of accommodation who are suffering from a mental disorder and persons living in premises used for the rehabilitation of alcoholics and drug addicts. Regulation 10 is amended to enable the normal requirements of boarders to be further modified in special cases, and to provide for the payment of a retaining fee for board and lodging accommodation where a boarder goes temporarily into residential accommodation. The provisions of regulation 12 are amended to adjust the circumstances in which more than one amount may be applicable by way of an additional requirement for heating. Regulation 14 is amended to limit the circumstances in which housing requirements may be applicable to boarders and to enable housing requirements to be applicable in respect of a prisoner remanded in custody for trial or sentence, and of members of the same household who in practice share expenses. Regulation 15 is amended to provide for mesne profits to be treated as rent and regulation 19 is amended in particular to increase the class of items by analogy to which an amount may be applicable. Regulation 20 is amended to allow for the payment of up to a week's rent in advance where the assessment unit has moved into rented accommodation and the landlord is the Northern Ireland Housing Executive. Regulation 22 is amended to provide that a reduction in housing requirements is not to be made in respect of a non-dependant who is providing residential assistance or has his usual home elsewhere. In Schedule 2 amendment is made to the provisions relating to the calculation of modified normal requirements of persons in residential accommodation and in hospital.

Regulation 3 amends the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1980. Regulation 2 of those regulations (interpretation) is amended in particular so that the definition of "student" applies to persons in full-time education who have ceased "relevant education" (the term used in the Order) instead of who have left school, and so as to restrict the provisions on income from fostering children to payments made in respect of children and young persons in relevant education boarded out by Health and Social Services Boards and voluntary organisations or in the care of prospective adoptive parents. Regulation 3 (which provides that resources are to consist of capital and income) is amended so that a repayment of income tax made to a person affected by a trade dispute is to be taken into account as income in the week in which it is received. The provisions of regulation 4 (notional resources) which relate to trusts under which trustees have a

discretion are modified in relation to any such trust derived from payments in consequence of personal or criminal injuries; and the provisions which relate to seasonal workers are extended to such workers who are self-employed. The provision in regulation 10 which relates to the calculation of the earnings of persons affected by a trade dispute is amended so as to apply only to such persons during the currency of the trade dispute and to align it with provisions on final earnings in the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1980. The provisions in regulation 11 which relate to the calculation of income other than earnings and payments by liable relatives are amended in particular so as to provide that the income of certain students in respect of partners and dependants is taken into account in full and to extend the disregard of certain income from capital, of certain payments made by education authorities (other than grants to students) and of any payment made and used for any leisure or amenity item or item for which in the calculation of benefit either no provision is made or provision is made but of an amount less than the cost of the item.

Paragraph 7(a) of the Schedule to the Supplementary Benefit (Aggregation, Requirements and Resources) (Amendment) Regulations (Northern Ireland) 1980 (which amended regulation 12(2)(d) of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980), which is spent, is revoked.

The regulations also contain minor and drafting amendments.