

1982 No. 284

SOCIAL SECURITY

**The Social Security (Claims and Payments) (Amendment)
Regulations (Northern Ireland) 1982**

Made 2nd September 1982

Coming into operation 4th October 1982

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 81 and 137(5) of the Social Security (Northern Ireland) Act 1975(a) and of all other powers enabling it in that behalf, 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(b) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 1982 and shall come into operation on 4th October 1982.

(2) In these regulations “the principal regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(c).

Amendment of regulation 16 of the principal regulations

2. At the beginning of regulation 16(1) of the principal regulations (time and manner of payment of certain pensions and allowances) before “This regulation” there shall be inserted “Except where benefit is payable in accordance with regulation 16A”.

Insertion of regulation 16A in the principal regulations

3. After regulation 16 of the principal regulations there shall be inserted the following regulation—

“Payment of certain benefits by direct credit transfer

16A.—(1) Subject to the provisions of this regulation, any benefit specified in paragraph (2) may, on the claimant’s application and with the consent of the Department, be paid by way of automated or other direct credit transfer into a bank account or other account—

- (a) in the name of the beneficiary, or his spouse, or a person authorised to receive benefit on behalf of the beneficiary; or
- (b) in the joint names of the beneficiary and his spouse, or of the beneficiary and a person authorised to receive benefit on his behalf.

(a) 1975 c. 15; section 81 was extended by Article 5(3) of the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)) and section 137(5) was amended by Article 4 of, and paragraph 3(b) of the Schedule to, the Social Security (Northern Ireland) Order 1981 (S.I. 1981/1118 (N.I. 25))

(b) 1980 c. 30

(c) S.R. 1977 No. 351, to which there are amendments not relevant to these regulations

(2) The following benefits (including, where appropriate, increases of them) are benefits specified for the purposes of paragraph (1)—

- (a) retirement pension of any category;
- (b) widow's benefit (which in this regulation means a widowed mother's allowance under section 25 of the Act, a widow's pension under section 26, and benefit by virtue of section 39(4) corresponding to a widow's pension or a widowed mother's allowance);
- (c) child's special allowance;
- (d) attendance allowance;
- (e) mobility allowance;
- (f) industrial death benefit except where it is being paid at the rate referred to in section 68(1) of the Act;
- (g) age addition if payable together with any benefit which is also paid under the provisions of this regulation.

(3) An application for benefit to be paid in accordance with paragraph (1)—

- (a) shall be in writing on a form approved for the purpose by the Department or in such other manner, being in writing, as it may accept as sufficient in the circumstances; and
- (b) shall contain a statement or be accompanied by a written statement made by the applicant declaring that he has read and understood the conditions applicable to payment of benefit in accordance with this regulation and in particular that he has understood the effect that paragraph (8) would have in the event of any overpayment of benefit.

(4) Benefit shall be paid in accordance with paragraph (1) within 7 days of the last day of each successive period of entitlement of 4 or 13 weeks as may be provided in the application.

(5) Paragraphs (10) to (12) of regulation 16 shall apply to payment of benefit under this regulation as if the reference in each such paragraph to the appropriate day of the week for payment were a reference to—

- (a) if the benefit is mobility allowance, Wednesday;
- (b) if, when the application for payment under this regulation is accepted, benefit is already being paid weekly, the day of the week on which it is being so paid;
- (c) in any other case, the day of the week specified in paragraphs (5) to (8) of regulation 16 in relation to the benefit in question,

and in each of those paragraphs as so applied the expression "the next such appropriate day" shall be construed accordingly.

(6) In respect of benefit which is the subject of an arrangement for payment under this regulation, the Department may make a particular payment by credit transfer otherwise than is provided by paragraph (4) if it appears to it appropriate to do so for the purpose of—

- (a) paying any arrears of that benefit; or
- (b) co-ordinating periodic crediting in respect of different benefits, or in respect of a benefit and an increase thereof; or
- (c) making a payment in respect of a terminal period of an award, or of the period covered by the arrangement, where that terminal period is one of less than 4 weeks or 13 weeks, whichever is applicable under the arrangement,

or for any similar purpose.

(7) The arrangement for benefit to be payable in accordance with this regulation may be terminated—

- (a) by the beneficiary or a person acting on his behalf by notice in writing delivered or sent to an office of the Department; or
- (b) by the Department if the arrangement seems to it to be no longer appropriate to the circumstances of the particular case.

(8) In relation to payments of benefit which in pursuance of this regulation have been credited to a bank or other account under an arrangement made with the agreement of the beneficiary, if in respect of that arrangement he made a statement in accordance with paragraph (3) that he had read and understood the conditions applicable to payment of benefit in accordance with this regulation, section 119 of the Act shall have effect as if subsection (2) and the words in subsection (2A) from “unless it is shown” to the end of that subsection (repayment of overpaid benefit not required where due care and diligence to avoid overpayment is shown) were omitted.

(9) Where the Department certifies that it appears to it—

- (a) that an overpayment or any specified part thereof is not materially due to the arrangement for benefit to be payable provided for in this regulation; or
- (b) that in the particular circumstances of the case it would be inappropriate to apply the provisions of paragraph (8) to an overpayment or any specified part thereof,

the question whether repayment of the overpayment or, as the case may be, the specified part of the overpayment is required shall be determined in accordance with section 119 of the Act without the application of paragraph (8) of this regulation.”.

Amendment of regulation 19 of the principal regulations

4. At the end of regulation 19 of the principal regulations (time and manner of payment of age addition) there shall be added the following paragraph—

“(5) This regulation shall not apply in any case where benefit is payable in accordance with the provisions of regulation 16A.”.

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

5. At the end of regulation 9 of the Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975(a) (time and manner of payment of allowance) there shall be added the following paragraph—

“(9) This regulation shall not apply in any case where benefit is payable in accordance with the provisions of regulation 16A of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977 (payment of certain benefits by direct credit transfer).”.

Repayment of benefit paid to a person on behalf of a beneficiary

6.—(1) At the end of regulation 14A of the Social Security (General Benefit) (Northern Ireland) Regulations 1975(b) (repayment by a person who has received payment of benefit on behalf of a beneficiary) there shall be added the following paragraph—

“(6) In a case where payments within paragraph (1) have been made by way of crediting a bank or other account at the request of the beneficiary, if in relation

(a) S.R. 1975 No. 280, to which there are amendments not relevant to these regulations

(b) S.R. 1975 No. 26; regulation 14A was inserted by S.R. 1980 No. 385

to those payments regulations made by virtue of Article 5(3) of the Social Security (Northern Ireland) Order 1980(a) modify section 119 of the Social Security (Northern Ireland) Act 1975, paragraph (4), and in paragraph (5) the words after "to whom payment was made", do not have effect."

(2) At the end of regulation 22 of the Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975 (repayment of allowances paid to a person on behalf of another) there shall be added the following paragraph—

"(4) Paragraph (3) does not apply to payments of benefit made by way of crediting a bank or other account at the request of the beneficiary if in relation to those payments regulations made by virtue of Article 5(3) of the Social Security (Northern Ireland) Order 1980 modify section 119 of the Social Security (Northern Ireland) Act 1975."

Penalties for breach of the principal regulations

7.—(1) In regulation 31 of the principal regulations (breach of regulations) for "£50" there shall be substituted "£200" and for "£10 together with a further £10" there shall be substituted "£20".

(2) Paragraph (1) shall have effect only in relation to offences committed after this regulation comes into operation.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 2nd September 1982.

(L.S.)

I. M. S. Jordan (Miss)

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977 ("the principal regulations"). Regulation 3 inserts new regulation 16A in the principal regulations concerning the making of arrangements, on a claimant's application but subject to the Department's consent, for benefit to be paid by way of automated or other direct crediting to a bank or other account at intervals of 4 or 13 weeks.

The new regulation 16A of the principal regulations:

- specifies persons into whose accounts or joint accounts benefit may be credited and the benefits within the scope of the regulation (paragraphs (1) and (2));
- provides for the manner in which applications are to be made and requires an applicant to declare that he has read and understood the conditions applicable — so ensuring that he becomes aware of the effect that paragraph (8) would have in the event of overpayment of benefit (paragraph (3));
- makes provision for payment by crediting at intervals of 4 or 13 weeks, commencement dates, effective dates for benefit rate changes, terminal payments and the termination of direct credit arrangements (paragraphs (4) to (7));
- modifies section 119 of the Social Security (Northern Ireland) Act 1975, subsections (2) and (2A) of which provide that overpaid benefit is not recoverable where it is shown that the beneficiary and any person acting for him exercised due care and diligence to avoid overpayment; paragraph (8) removes this restriction on recovery where the overpayment occurred in the course of direct crediting under the regulation following a declaration made in accordance with paragraph (3); section 119 applies, however, in its unmodified form where the Department issues a certificate to that effect (paragraph (9)).

Regulations 2, 4, 5 and 6 make amendments, consequent upon the new regulation 16A, to other provisions of the principal regulations and to provisions of the Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975 and the Social Security (General Benefit) (Northern Ireland) Regulations 1975.

Regulation 7 increases the maximum fine which can be imposed for an offence against the provisions of the principal regulations from £50 to £200 and, where the offence is of a continuing nature, from £10 to £20 for each day the offence continues.