

## 1986 No. 236

## SOCIAL SECURITY

**The Supplementary Benefit (Requirements and Resources) (Miscellaneous Amendments) Regulations (Northern Ireland) 1986**

*Made* . . . . . 22nd July 1986

*Coming into operation—*

<i>Regulations 1, 2(1), 2(3) and 3(7)</i>	<i>28th July 1986</i>
<i>Regulation 2(2)</i>	<i>1st September 1986</i>
<i>Regulation 3(1) to 3(6) and 3(8)</i>	<i>3rd November 1986</i>

The Department of Health and Social Services, in exercise of the powers conferred on it by paragraphs 1 and 2 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 and Personnel(b), hereby makes the following regulations:

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Supplementary Benefit (Requirements and Resources) (Miscellaneous Amendments) Regulations (Northern Ireland) 1986 and shall come into operation as follows—

- (a) regulations 1, 2(1), 2(3) and 3(7) on 28th July 1986;
- (b) regulation 2(2) on 1st September 1986;
- (c) regulation 3(1) to 3(6) and 3(8) on 3rd November 1986.

(2) In these regulations—

“Requirements Regulations” means the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983(c);

“Resources Regulations” means the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984(d).

*Amendment of the Requirements Regulations*

2.—(1) The Requirements Regulations shall be amended in accordance with the following provisions.

(2) In regulation 19A (housing benefit supplement)—

- (a) in paragraph (1) for “paragraphs (3) and (4)” there shall be substituted “paragraphs (3) to (4)”; and
- (b) after paragraph (3) there shall be inserted the following paragraph—

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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) Formerly the Department of Finance: see S.I. 1982/338 (N.I. 6), Article 3. See also Article 41(1) of the Supplementary Benefits (Northern Ireland) Order 1977, as amended by the Social Security (Northern Ireland) Order 1980
  - (c) S.R. 1983 No. 61; the relevant amending regulations are S.R. 1983 No. 291 and S.R. 1984 No. 79
  - (d) S.R. 1984 No. 54; the relevant amending regulations are S.R. 1984 Nos. 174 and 278 and S.R. 1985 Nos. 84 and 206

“(3A) Where for the purposes of ascertaining the eligible rent under the Housing Benefits Regulations(a) a person’s eligible rent is reduced in the circumstances prescribed in paragraph 10 of Schedule 1A to those regulations, there shall for the purposes of paragraph (2)(a) be added to the eligible rent otherwise ascertained under those regulations—

- (a) the amount of that reduction under that paragraph 10; or
- (b) where the amount of that reduction is greater than the eligible rent, the amount which would be but for that reduction that person’s eligible rent as so ascertained.”.

(3) In regulation 22(5) (reduction in amounts applicable for certain occupants of the home) for sub-paragraph (e) there shall be substituted the following sub-paragraph—

“(e) except during the normal summer vacation, for a non-dependant who is a student and does not pay to the claimant or his partner an amount in respect of his accommodation and, at least some cooked or prepared meals at a commercial rate, or for a group of non-dependants where the head of that group is such a student;”.

#### *Amendment of the Resources Regulations*

3.—(1) The Resources Regulations shall be amended in accordance with the following provisions.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “the Taxes Act” there shall be inserted the following definition—

“ “a course of advanced education” means—

- (a) a full-time course in preparation for a degree, a diploma of higher education, a higher national diploma, a higher national diploma of the Business & Technician Education Council or the Scottish Vocational Education Council or a teaching qualification; or
- (b) any other full-time course which is a course of a standard above ordinary national diploma, a national diploma of the Business & Technician Education Council or the Scottish Vocational Education Council, a general certificate of education (advanced level), a Scottish certificate of education (higher grade) or a Scottish certificate of sixth year studies;”;

(b) after the definition of “allowance” there shall be inserted the following definition—

“ “a person in relevant education” means a person to whom regulation 10 of the Conditions of Entitlement Regulations applies;”;

(c) after the definition of “assessment unit” there shall be inserted the following definition—

“ “Awards Regulations” means the Students Awards Regulations (Northern Ireland) 1985(b);”;

(d) after the definition of “claimant” there shall be inserted the following definition—

“ “Conditions of Entitlement Regulations” means the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1981(c);”;

(a) S.R. 1985 No. 282; the relevant amending regulations are S.R. 1986 No. 235

(b) S.R. 1985 No. 301

(c) S.R. 1981 No. 371; the relevant amending regulations are S.R. 1982 Nos. 240 and 295, S.R. 1983 Nos. 76 and 191 and S.R. 1984 Nos. 120, 174 and 266

- (e) in the definition of “education authority” after “Science and Technology Act 1965” there shall be inserted “a Minister of the Crown, or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Northern Ireland”; and
- (f) for the definition of “student” there shall be substituted the following definition—

“ “student” means a person aged less than 19 who is attending a course of advanced education or, as the case may be, a person aged 19 or over but under pensionable age, not being a person to whom regulation 3(5) of the Aggregation Regulations(a) applies, who is attending a course of full-time education; and for the purposes of this definition a person shall be treated as attending a course of advanced education or, as the case may be, full-time education—

- (a) during the period for which his maintenance grant or award is, or if he were in receipt of such a grant or award would be, payable under Part II of Schedule 7 to the Awards Regulations; and
- (b) during the Christmas, Easter or any other vacation, other than the normal summer vacation as recognised in relation to him by the institution at which he is attending his course, falling within the period of that course;”.

(3) In paragraph (2)(e) of regulation 3 (calculation of resources) after “applies” there shall be inserted “but in the case of a student or a person who was a student immediately preceding the first day of his normal summer vacation and a claim is made in respect of any period constituting that normal summer vacation, any such repayment shall be treated as a capital resource”.

(4) In regulation 4 (notional resources) for paragraph (4) there shall be substituted the following paragraph—

“(4) Whether or not a student is in receipt in respect of his course of a grant or award or any part thereof from an education authority he shall be treated as possessing an income resource of an amount equal to—

- (a) the aggregate of the requirements specified in Schedule 7 to the Awards Regulations as modified by the provisions of regulation 13(3) or 15 of those regulations, as the case may be, appropriate to his case, the place where and course which he is attending; or
- (b) where no such provision is appropriate, that amount which is specified in, or payable by virtue of, the provisions or enactment referred to in sub-paragraph (a) which is appropriate to his case, the place where and course which he is attending,

unless the student is a person to whom regulation 6(a), (i) or (j) of the Conditions of Entitlement Regulations applies.”.

(5) Regulation 4(13) and (14) (assumed income of grant-aided student during Christmas and Easter vacation) shall be omitted.

(6) In regulation 9 (calculation of income resources)—

- (a) in paragraph (1)(b) after “regulations” there shall be inserted “4,,”;
- (b) in paragraph (2) after “so far as” there shall be inserted “paragraphs (3), (4) and”;
- (c) after paragraph (2) there shall be added the following paragraphs—

(a) S.R. 1981 No. 373; the relevant amending regulations are S.R. 1984 No. 266

“(3) Where a person’s income consists of a student grant or award each component part of the aggregate amount shall be treated as payable in respect of the period specified in respect of that component part in the Awards Regulations.

(4) The weekly amount of any income payable under a Deed of Covenant to which regulation 11(2)(*u*) or (*v*) applies shall be determined by dividing the sum to be taken into account under that regulation by 52, and each weekly amount so determined shall be treated as payable on the first day of the benefit week.”.

(7) In paragraph (3)(*g*) of regulation 10 (calculation of earnings) after “United Kingdom” where it first occurs there shall be inserted “(including any such earnings spent in that country)”.

(8) In regulation 11 (calculation of other income)—

(*a*) in paragraph (1) after “9(2)” there shall be inserted “to (4)”;

(*b*) for sub-paragraph (*m*) of paragraph (2), there shall be substituted the following sub-paragraph—

“(*m*) any income which consists of a grant or award, including any part which is paid in respect of a partner or a dependant pursuant to Articles 50 and 51 of the Education and Libraries (Northern Ireland) Order 1986(*a*) in excess of the amount that the student is treated as possessing by virtue of regulation 4(4) or, in the case of a student to whom regulation 6(*a*), (*i*) or (*j*) of the Conditions of Entitlement Regulations applies, subject to paragraph (4)(*d*) any such grant or award including any part paid in respect of a partner or dependant pursuant to the enactments referred to in this sub-paragraph only insofar as it exceeds the sum of £2;”;

(*c*) after sub-paragraph (*t*) of paragraph (2) there shall be added the following sub-paragraphs—

“(*u*) the annual income net of income tax at the basic rate payable to the claimant or his partner, who is a student, under a Deed of Covenant executed by a person who is or would be liable to have their income taken into account by an education authority in assessing that student’s grant or award, but only to the extent that the amount of that income is in excess of the aggregate of—

(*i*) where the student is in receipt of a grant or award, the amount which the person executing that covenant has been assessed to contribute towards that student’s grant or award by an education authority, but not exceeding the amount of the requirements specified in Schedule 7 to the Awards Regulations as modified by regulation 13(3) or 15, as the case may be, of those regulations, or

(*ii*) where the student is not in receipt of a grant or award, the standard maintenance and additional allowance payable by virtue of, or the requirements specified in, the enactment and provisions referred to in head (*i*) which were appropriate to his case, the place where and course which he is attending;

(*v*) the annual income net of income tax at the basic rate payable to a person who was a student immediately preceding the first day of his normal summer vacation where a claim is made in respect of any period constituting that normal summer vacation, under a Deed of Covenant extant on the first day of that summer vacation and executed by a person who is or would be liable to have their income taken into account by an education authority in assessing that first mentioned person’s grant or award, but only to the extent that the amount of that income is in excess of the aggregate of—

- (i) where the first mentioned person was in receipt of a grant or award, the amount which the person executing that covenant has been assessed to contribute towards that first mentioned person's grant or award by an education authority, but not exceeding the amount of the requirements specified in Schedule 7 to the Awards Regulations as modified by regulation 13(3) or 15, as the case may be, of those regulations, or
  - (ii) where the first mentioned person was not in receipt of a grant or award, the standard maintenance and additional allowance payable by virtue of, or the requirements specified in, the enactment and provisions referred to in head (i) which were appropriate to his case, the place where and course which he is attending;
- (w) subject to paragraph (4)(d) any income treated as possessed by virtue of regulation 4(4).";
- (d) in paragraph (4)(d) after head (iii) there shall be added the following heads—
- “(iv) to a student in respect of travelling or special equipment expenses as defined in paragraph 13 of Schedule 7 to the Awards Regulations,
  - (v) to a student, being an amount equal to £187 (representing the cost of books and equipment other than special equipment);”;
- (e) after sub-paragraph (1) of paragraph (4) there shall be added the following sub-paragraph—
- “(m) any income net of income tax at the basic rate payable under a Deed of Covenant to a person who was a student immediately preceding the first day of his normal summer vacation where a claim has been made in respect of any period constituting that normal summer vacation; and that Deed of Covenant—
- (i) has been executed by a person who is or would be liable to have his income taken into account by an education authority in assessing that first mentioned person's grant or award, and
  - (ii) commences or takes effect after the first day of that vacation.”;
- (f) after paragraph (5)(d) there shall be inserted the following sub-paragraph—
- (dd) the amount of any income to be taken into account by virtue of paragraph (2)(u) or (v);”.

Sealed with the Official Seal of the Department of Health and Social Services on 22nd July 1986.

(L.S.)

*C. Davie*

Assistant Secretary

The Department of Finance and Personnel hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 22nd July 1986.

(L.S.)

*R. G. Smartt*

Assistant Secretary

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations further amend the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983 ("the Requirements Regulations") and the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984 ("the Resources Regulations") to make provision for students. They correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

Regulation 2 amends the Requirements Regulations by

- taking into account in the calculation of a housing benefit supplement requirement any reduction made under the Housing Benefits Regulations (Northern Ireland) 1985 because the claimant or his partner is a student; and
- providing that no non-dependant deduction be made in respect of a student who is maintained in whole or part by the claimant or his partner except during the normal summer vacation.

Regulation 3 amends the Resources Regulations by

- substituting a new definition of student so as to treat a person as a student during any period in respect of which his maintenance grant or allowance is or would be payable and during any vacation (other than the summer) falling within the period of his course and by making consequential changes to other definitions;
- providing for the treatment of an income tax refund to a student other than under Schedule E of the Income and Corporation Taxes Act 1970 as capital;
- providing for a student to be treated as possessed of an income resource equal to the maximum maintenance grant or award appropriate to his case, place of study and course unless he is a single parent, a disabled person or one of an unmarried couple in certain circumstances (exempted students); and deletes the provision hitherto in operation which treated students in receipt of a mandatory grant or award as possessed of an income resource during the Christmas and Easter vacations;
- making provision for treating each component part of a student's grant or award as payable for the period specified in respect of that part in the relevant awards legislation; and for the weekly amount of net income payable under a Deed of Covenant executed by a person liable to contribute to the student's maintenance and in excess of the amount that person was liable to contribute to the student's maintenance, or where there has been no such assessment, the amount of grant or award which the student is treated as possessing, to be determined by dividing that sum by 52;
- providing that the amount to be taken into account:
  - in the case of a student in receipt of a grant or award (other than an exempted student), is that in excess of the amount he is treated as possessing,
  - in the case of an exempted student, is his actual grant or award subject to a £2 weekly disregard,
  - under the Deed of Covenant as aforesaid, in the case of a person who was a student immediately prior to their summer vacation, during that vacation, is that in excess of the maximum grant or allowance payable subject to a £4 weekly disregard;

- providing for the disregard of that part of the student grant which the student is treated as possessing or actually possesses, paid in respect of travelling and special equipment and of £187 for the cost of books and equipment, and the disregard of any income payable under a Deed of Covenant as aforesaid which comes into operation during the summer vacation.