

1988 No. 67

SOCIAL SECURITY

The Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 1988

Made 4th March 1988

Coming into operation 11th April 1988

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 52(1)(*m*), (*p*) and (*q*) of the Social Security (Northern Ireland) Order 1986(a) 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 (Claims and Payments) (Amendment) Regulations (Northern Ireland) 1988 and shall come into operation on 11th April 1988.

(2) In these regulations “the principal regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(b).

Amendment of the principal regulations

2.—(1) The principal regulations shall be amended in accordance with paragraphs (2) and (3).

(2) After regulation 34 there shall be inserted the following regulation—

“Deductions from benefits and direct payment to third parties

34A. Deductions may be made from benefits and direct payments may be made to third parties on behalf of a beneficiary or his partner in accordance with the provisions of Schedule 8A.”

(3) After Schedule 8 (election to have child benefit paid weekly) there shall be inserted as Schedule 8A the Schedule set out in the Schedule to these regulations.

Sealed with the Official Seal of the Department of Health and Social Services on 4th March 1988.

(L.S.)

A. N. Burns

Assistant Secretary

(a) S.I. 1986/1888 (N.I. 18)

(b) S.R. 1987 No. 465

Deductions from benefits and direct payment to third parties*Interpretation*

1. In this Schedule—

“applicable amount” in a case where income support is in payment means the aggregate of the amounts for the family as are determined under regulation 17(a) to (d) or regulation 18(a) to (e) of the Income Support Regulations; in any other case it means the total amount of specified benefits, together with any child benefit, but excluding any amount payable in respect of dependants not normally resident with the beneficiary, in payment to either the beneficiary or his partner;

“child” means a person who would be treated as a child under Article 4 of the Child Benefit (Northern Ireland) Order 1975(a);

“family” means—

(a) a married or unmarried couple;

(b) a married or unmarried couple and a member of the same household for whom one of them is or both are responsible and who is a child;

(c) a person who is not a member of a married or unmarried couple and a member of the same household for whom that person is responsible and who is a child; or

(d) in the case of a person to whom (a), (b) or (c) does not apply, that person;

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations (Northern Ireland) 1987(b);

“housing costs” means those costs specified in paragraph 1(a), (b), (c) (but only when paid with service charges) and (d) of Schedule 3 to the Income Support Regulations;

“income support” means income support under Part III of the Order;

“the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(c);

“miscellaneous accommodation costs” has the meaning assigned by paragraph 4(1);

“mortgage payment” means a payment attributable to interest on a mortgage which falls to be met under paragraph 7 of Schedule 3 to the Income Support Regulations (interest on loans to acquire an interest in the dwelling occupied as the home); and for the purposes of this Schedule includes interest payable on loans which falls to be met under paragraph 8 of that Schedule (interest on loans for repairs and improvements to the dwelling occupied as the home);

“personal allowance for a single claimant aged not less than 25 years” means the amount specified in column (2) of paragraph 1(1)(c) of Schedule 2 to the Income Support Regulations;

(a) S.I. 1975/1504 (N.I. 16)

(b) S.R. 1987 No. 461

(c) S.R. 1987 No. 459

“rent” has the meaning assigned to it in the Housing Benefit Regulations and, for the purposes of this Schedule—

(a) where in a particular case a claimant’s rent includes elements which would not otherwise fall to be treated as rent, references to rent shall include those elements; and

(b) references to “rent” include references to part only of the rent;

“specified benefit” means income support, unemployment benefit, sickness benefit, invalidity benefit, retirement pension, severe disablement allowance, widow’s pension or widowed mother’s allowance;

“unrebated rent” means the net amount of rent payable (excluding any amount in respect of a service charge for fuel), after deducting any rent rebate or rent allowance, by the beneficiary or his partner to the Northern Ireland Housing Executive or any government department; and

“unrebated rates” means the net amount of rates payable, after deducting any rates rebate, by the beneficiary or his partner to the Department of the Environment.

General

2.—(1) Any specified benefit may be paid direct to a third party in accordance with the provisions of this Schedule in discharge of a liability of the beneficiary or his partner to that third party in respect of—

(a) housing costs;

(b) miscellaneous accommodation costs;

(c) service charges for fuel, and rent not falling within head (a);

(d) fuel costs; and

(e) rates.

(2) A payment to be made to a third party under this Schedule shall be made at such intervals as the Department may direct, on behalf of and in discharge (in whole or in part) of the obligation of the beneficiary or, as the case may be, of his partner, in respect of which the payment is made.

Housing costs

3.—(1) Subject to sub-paragraph (3) and paragraph 8, where a beneficiary who has been awarded income support or his partner is in debt for any item of housing costs which continues to be applicable to the beneficiary under regulation 17(e) or regulation 18(f) of the Income Support Regulations, the adjudicating authority may, if in its opinion it would be in the interests of the family to do so, determine that an amount of any specified benefit (“the amount deductible”) calculated in accordance with sub-paragraphs (2) and (3) shall be paid in accordance with paragraph 2(2).

(2) The amount deductible shall be such weekly aggregate of the following as is appropriate—

(a) in respect of any debt to which sub-paragraph (1) applies, or where the debt owed is in respect of an amount which includes more than one item of housing costs, a weekly amount equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 years (that 5 per cent. being, where it is not a multiple of 5 pence, rounded to the next higher such multiple) for such period as is necessary to discharge that debt, so however that in aggregate the weekly amount calculated under this head shall not exceed 3 times that 5 per cent.;

(b) for each such debt—

(i) in respect of mortgage payments, the weekly amount of the mortgage payment in that case, and

(ii) for any other housing item, the actual weekly cost necessary in respect of continuing need for the relevant item,

and the adjudicating authority may direct that, when the debt is discharged, the amount determined under head (b) shall be the amount deductible.

(3) Sub-paragraph (1) shall not apply to any debt which is either—

(a) in respect of mortgage payments and the beneficiary or his partner has in the preceding 12 weeks paid sums equal to 8 weeks' mortgage payments due in that period; or

(b) for any other item of housing costs and is less than half the annual amount due to be paid by the beneficiary or his partner in respect of that item,

unless, in either case, in the opinion of the adjudicating authority it is in the interests of the family that sub-paragraph (1) should apply.

Miscellaneous accommodation costs

4.—(1) Subject to paragraph 8, where an award of income support includes an amount under Schedule 4 (persons in homes for persons in need or nursing homes) or Schedule 5 (persons in board and lodging accommodation or hostels) or paragraph 13 (persons in residential accommodation) of Schedule 7 to the Income Support Regulations (“miscellaneous accommodation costs”) the adjudicating authority may determine that an amount of any specified benefit shall be paid direct to the person to whom the charges in respect of that accommodation are payable, but, except in a case where the accommodation is a hostel which provides residential accommodation for persons generally or a class of persons and which is managed by a voluntary body or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community, or which provides facilities for alcoholics or drug addicts, only if the adjudicating authority is satisfied that the beneficiary has failed to budget for the charges and that it is in the interests of the family.

(2) In relation to miscellaneous accommodation costs the amount of any payment of any specified benefit to a third party determined under sub-paragraph (1) shall be—

(a) the amount determined under paragraph 1(1)(a) of Schedule 4 to the Income Support Regulations excluding any increase under paragraph 2(2) of that Schedule;

(b) the amount determined under paragraph 1(1)(a) of Schedule 5 to those regulations excluding any increase under paragraph 2 of that Schedule; or

(c) the amount determined under paragraph 13(1) of Schedule 7 to those regulations excluding the amount allowed by that paragraph in respect of personal expenses,

as the case may be.

Service charges for fuel, and rent not falling within paragraph 2(1)(a)

5.—(1) Subject to paragraph 8, this paragraph applies to a beneficiary if—

(a) he has been awarded any specified benefit;

(b) he, or his partner, has a current liability to the landlord making the application; and

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 by inserting regulation 34A and Schedule 8A.

The inserted regulation 34A and Schedule 8A relate to the circumstances in which housing costs and fuel costs are to be met regularly by direct payment to creditor bodies out of any specified benefit and contain provisions for the calculation of the amount payable direct, the maximum amount deductible and for priority of debts.

These regulations are made before the expiry of 12 months from the commencement of the provisions under which they are made: they are accordingly exempt, by virtue of Article 62(5) of the Social Security (Northern Ireland) Order 1986, from reference to the Social Security Advisory Committee.

(c) he or his partner has arrears of rent which equal or exceed 50 per cent. of the personal allowance for a single claimant aged not less than 25 years and—

- (i) there are arrears of rent in respect of at least 6 weeks and the landlord has requested the Department to make payments in accordance with this paragraph, or
- (ii) there are arrears of rent in respect of less than 6 weeks and in the opinion of the adjudicating authority it is in the interests of the family that payments shall be made in accordance with this paragraph.

(2) Subject to sub-paragraphs (3) and (7), in a case to which sub-paragraph (1) applies the adjudicating authority shall determine that a weekly amount of any specified benefit awarded to the beneficiary shall be paid to his or his partner's landlord if, in the calculation of his or his partner's entitlement to housing benefit a deduction is made under regulation 10(3) of the Housing Benefit Regulations in respect of service charges for fuel, and the amount to be so paid shall be equal to the amount of that deduction.

(3) Sub-paragraph (2) shall not apply to a deduction in respect of a service charge for fuel if that charge is one such as is mentioned in paragraph 5(5) of Schedule 1 to the Housing Benefit Regulations (variable service charges for fuel) unless the adjudicating authority is satisfied on the evidence available at the date of the determination that the amount of the charge does not normally alter more than twice in any one year.

(4) In a case to which sub-paragraph (1) applies and the beneficiary or his partner is in debt to the Northern Ireland Housing Executive or a government department, the adjudicating authority shall determine that a weekly amount of any specified benefit awarded to that beneficiary equal to any unreduced rent shall be paid to either the Northern Ireland Housing Executive or a government department as the case may be.

(5) Subject to sub-paragraph (7), in a case to which sub-paragraph (1) applies the adjudicating authority shall determine that a weekly amount of any specified benefit awarded to that beneficiary equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 years (that 5 per cent. being, where it is not a multiple of 5 pence, rounded to the next higher such multiple) shall be paid to his or his partner's landlord until the debt is discharged.

(6) Where a debt under sub-paragraph (1) has been discharged the adjudicating authority may determine that payments under sub-paragraphs (2) and (4) shall continue.

(7) Where an amount to be paid to his or his partner's landlord calculated in accordance with sub-paragraph (2), or the aggregate amount calculated in accordance with sub-paragraphs (2) and (5), exceeds a sum equal to 25 per cent. of the applicable amount (that 25 per cent. being, where it is not a whole number of pence, rounded down to the next such penny), a determination that such amount or aggregate amount be paid shall be made only with the consent of the beneficiary and where the beneficiary does not so consent the adjudicating authority shall determine that an amount equal to 25 per cent. of the applicable amount (that 25 per cent. being, where it is not a whole number of pence, rounded down to the next such penny) shall be paid.

Fuel costs

6.—(1) Subject to paragraph 8, where a beneficiary who has been awarded any specified benefit or his partner is in debt for any item of mains

gas or mains electricity ("fuel item") to an amount not less than the rate of personal allowance for a single claimant aged not less than 25 years and continues to require that fuel, the adjudicating authority shall determine that an amount of the award of the specified benefit ("the amount deductible") calculated in accordance with sub-paragraphs (2) to (5) shall be paid to the person to whom payment is due in accordance with paragraph 2(2) but, except in a case to which sub-paragraph (5) applies, only where the adjudicating authority is of the opinion that such a payment would be in the interests of the family.

(2) Subject to sub-paragraph (5), the amount deductible shall, in respect of any fuel item, be such weekly aggregate of the following as is appropriate—

(a) subject to sub-paragraph (3), in respect of a debt to which sub-paragraph (1) applies a weekly amount equal to 10 per cent. of the personal allowance for a single claimant aged not less than 25 years (that 10 per cent. being, where it is not a multiple of 5 pence rounded to the next higher such multiple), so however that the amount, or, where a debt remains outstanding in respect of more than one fuel item, the aggregate of the amounts, calculated under this head shall not exceed 3 times 5 per cent. of the personal allowance for a single claimant aged not less than 25 years;

(b) except where current consumption is paid for by other means (for example pre-payment meter), an amount equal to the estimated average weekly cost necessary to meet the continuing need for that fuel item, varied, when appropriate, in accordance with sub-paragraph (4)(a).

(3) Where a debt remains outstanding in respect of more than one fuel item sub-paragraph (2)(a) shall apply as if for the figure "10 per cent." there were substituted the figure "5 per cent."

(4) Where an amount is being paid direct to a person on behalf of the beneficiary or his partner in accordance with a determination under sub-paragraph (1) and that determination falls to be reviewed—

(a) where since the date of that determination the average weekly cost estimated for the purpose of sub-paragraph (2)(b) has either exceeded or has proved insufficient to meet the actual cost of continuing consumption so that in respect of the continuing need for that fuel item the beneficiary or his partner is in credit or, as the case may be, a further debt has accrued, the adjudicating authority may determine that the weekly amount calculated under that sub-paragraph shall, for a period of 26 weeks, be adjusted so as to take account of that credit or further debt;

(b) where a debt in respect of any fuel item has been discharged the adjudicating authority may determine that the amount deductible in respect of that fuel item shall be the amount determined under sub-paragraph (2)(b).

(5) Subject to paragraph 8, where the aggregate amount calculated in accordance with sub-paragraph (2) exceeds a sum equal to 25 per cent. of the applicable amount (that 25 per cent. being, where it is not a whole number of pence, rounded down to the next such penny), a determination that such aggregate amount be paid shall be made only with the consent of the beneficiary and where the beneficiary does not so consent the adjudicating authority shall determine that an amount equal to 25 per cent. of the applicable amount (that 25 per cent. being, where it is not a whole number of pence, rounded down to the next such penny) shall be paid.

Rates

7.—(1) Subject to paragraph 8, this paragraph applies to a beneficiary if—

(a) he has been awarded any specified benefit;

(b) he, or his partner, has a current liability for rates; and

(c) he or his partner has arrears of rates which—

(i) are at least 50 per cent. of the personal allowance for a single claimant aged not less than 25 years and the Department of the Environment has requested the Department to make payments in accordance with this paragraph, or

(ii) are less than 50 per cent. of the personal allowance for a single claimant aged not less than 25 years and in the opinion of the adjudicating authority it is in the interests of the family that payment shall be made in accordance with this paragraph.

(2) In a case to which sub-paragraph (1) applies, the adjudicating authority shall determine that a weekly amount of any specified benefit awarded to the beneficiary equal to a weekly amount of any unrebated rates (where that amount is not a whole number of pence, rounded down to the next such penny) shall be paid to the Department of the Environment.

(3) In a case to which sub-paragraph (1) applies, the adjudicating authority shall determine that a weekly amount of the specified benefit awarded to that beneficiary equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 years (that 5 per cent. being, where it is not a multiple of 5 pence, rounded to the next higher such multiple) shall be paid to the Department of the Environment for such a period as is necessary to discharge the debt.

(4) Where a debt under sub-paragraph (1) has been discharged the adjudicating authority may determine that payments under sub-paragraph (2) shall continue.

Aggregate amounts and maximum amount of payments to third parties

8.—(1) Where the award made to a beneficiary of any specified benefit is less than the total of the amount or aggregate amount otherwise authorised to be paid under this Schedule plus 10 pence, that amount or aggregate amount shall be adjusted so that 10 pence of each award is payable to the beneficiary.

(2) The maximum aggregate amount payable under paragraphs 3(2)(a), 5(5), 6(2)(a) and 7(3) shall not exceed an amount equal to 3 times 5 per cent. of the personal allowance for a single claimant aged not less than 25 years.

(3) Where the aggregate of the amount payable under paragraphs 5(2), 5(5) and 6(2) or 5(2) and 6(2) exceeds a sum equal to 25 per cent. of the applicable amount (that 25 per cent. being, where it is not a whole number, rounded down to the next such penny), a determination that such aggregate amount be paid shall be made only with the consent of the beneficiary and where the beneficiary does not so consent the adjudicating authority shall determine that an amount equal to 25 per cent. of the applicable amount (that 25 per cent. being, where it is not a whole number of pence, rounded down to the next such penny) shall be paid.

Priority as between debts

9.—(1) Where in any one week more than one of paragraphs 3 to 7 are applicable to the beneficiary and the amount of the specified benefit which may be paid to third parties is insufficient to meet the whole of the liabilities for which provision is there made the following order of priorities shall apply—

- (a) any liability mentioned in paragraph 3 (housing costs);
- (b) any liability mentioned in paragraph 5 (service charges for fuel, and rent not falling within paragraph 2(a));
- (c) any liability mentioned in paragraph 6 (fuel costs);
- (d) any liability mentioned in paragraph 7 (rates).

(2) As between liability for items of housing costs liabilities in respect of mortgage payments shall have priority over all other items.

(3) As between liabilities for items of gas or electricity the adjudicating authority shall give priority to whichever liability it considers it would, having regard to the circumstances and to any requests of the beneficiary, be appropriate to discharge.”

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This Order has been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. A summary is given in the List of Statutory Rules of a Local Character under the heading ROADS.