

1989 No. 398

SOCIAL SECURITY

**The Social Security (Claims and Payments)
(Amendment No. 2) Regulations (Northern Ireland) 1989**

Made 6th October 1989

Coming into operation 9th October 1989

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 52(1) 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 No. 2) Regulations (Northern Ireland) 1989 and shall come into operation for the purposes of regulation 5, in relation to a particular beneficiary, at the beginning of the first benefit week to commence for that beneficiary on or after 9th October 1989 and for all other purposes on 9th October 1989.

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

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation) in the expression “claim for benefit” sub-paragraph (b) shall be omitted.

Amendment of regulation 6 of the principal regulations

3.—(1) Regulation 6 of the principal regulations (date of claim) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1) for “Subject to paragraphs (3) and (4)” there shall be substituted “Subject to paragraphs (3), (4) and (5)”.

(3) After paragraph (4) there shall be added the following paragraph—

“(5) Where a person submits a claim for attendance allowance by post and the arrival of that claim at an appropriate office is delayed by postal disruption caused by industrial action, whether within the postal service or elsewhere, the claim shall be treated as received on the day on which it would have been received if it had been delivered in the ordinary course of post.”.

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

(b) S.R. 1987 No. 465, relevant amending regulations are S.R. 1988 Nos. 67, 141 and 369 and S.R. 1989 No. 40

Amendment of regulation 19 of the principal regulations

4. In regulation 19(3) of the principal regulations (time for claiming benefit) for “the prescribed time shall be extended to one month” there shall be substituted “the prescribed time shall be extended—

- (a) except in a case to which sub-paragraph (b) applies, to one month; and
- (b) where the benefit claimed is family credit and there has been a previous award of that benefit, to one month from the day following the 14th day after the last day of that award.”.

Insertion of regulation 34B into the principal regulations

5. After regulation 34A of the principal regulations(a) (deductions from benefits and direct payment to third parties) there shall be inserted the following regulation—

“Transitional provisions for persons in hostels or certain residential accommodation

34B.—(1) In this regulation—

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

“benefit week” has the same meaning as it has in paragraph 4 of Schedule 7;

“specified benefit” has the same meaning as it has in paragraph 1 of Schedule 8A; and

“Schedule 3B” means Schedule 3B to the 1987 Regulations(c).

(2) Expressions used in this regulation and in Schedule 3B have the same meaning in this regulation as they have in that Schedule.

(3) Where—

(a) immediately before the coming into operation of Schedule 3B a beneficiary was in, or temporarily absent from, a hostel and a payment in respect of his accommodation charges was, or would but for that absence have been, made for the first week to a third party under—

(i) paragraph 4 of Schedule 8A (miscellaneous accommodation costs); or

(ii) regulation 34 (payment to another person on the beneficiary’s behalf);

(b) the beneficiary is entitled to eligible housing benefit for the period mentioned in sub-paragraph (b) of the expression “eligible housing benefit” in paragraph 1(1) of Schedule 3B; and

(a) Regulation 34A was inserted by S.R. 1988 No. 67 and amended by S.R. 1988 Nos. 141 and 369

(b) S.R. 1987 No. 459, relevant amending regulations are S.R. 1988 No. 318 and S.R. 1989 Nos. 139 and 395

(c) Schedule 3B was inserted by S.R. 1989 No. 139 and amended by S.R. 1989 No. 395

(c) the beneficiary continues to reside in the same hostel, the adjudicating authority shall in a case to which paragraph (6) applies determine that an amount of specified benefit shall, subject to paragraphs (8) and (9), be paid to that third party.

(4) Subject to paragraph (5) where a beneficiary is in, or is temporarily absent from, accommodation which—

(a) was a hostel before the March benefit week; and

(b) in the second week is residential accommodation within the meaning of regulation 21 of the 1987 Regulations(a), paragraph (3) shall apply as if sub-paragraph (b) of that paragraph was omitted and as if the reference to paragraph (6) in that paragraph was a reference to paragraph (7).

(5) An amount of specified benefit shall not be paid to a third party under paragraph (3), as applied by paragraph (4), where the beneficiary—

(a) is in residential accommodation in the benefit week which commences in the period of 7 consecutive days beginning on 9th October 1989; but

(b) is a person to whom a protected sum is not applicable in accordance with paragraph 3(3) of Schedule 3B.

(6) This paragraph applies in a case where—

(a) the amount of the eligible housing benefit referred to in paragraph (3)(b) is less than—

(b) the amount of the direct payment under paragraph 4 of Schedule 8A or the payment under regulation 34 in respect of the first week or the amount which would have been payable but for the temporary absence of the beneficiary in the first week,

and where this paragraph applies the amount of the specified benefit determined in accordance with paragraph (3) shall be the difference between the amounts specified in sub-paragraphs (a) and (b).

(7) This paragraph applies where the applicable amount which was appropriate to the beneficiary by way of personal expenses in the first week is less than the total applicable amount appropriate to the beneficiary in the second week; and where this paragraph applies the amount of the specified benefit determined in accordance with paragraph (3) as applied by paragraph (4) shall be the difference between those two amounts.

(8) Where immediately before the coming into operation of Schedule 3B a beneficiary was temporarily absent from a hostel and the charge levied on him during that period of absence was less than the full charge for the accommodation, an amount of specified benefit shall not be paid to the third party in respect of the period for which less than the full charge was levied but shall be paid when the full charge is levied.

(9) Where the award made to a beneficiary of any specified benefit is less than the total amount otherwise authorised to be paid under this

(a) Regulation 21 was amended by S.R. 1988 No. 318 and S.R. 1989 No. 139

regulation plus 10 pence, that amount shall be adjusted so that 10 pence of the award is payable to the beneficiary.

(10) For the purposes of paragraph (3)(c) residence shall be regarded as continuous where the only absences occurred during the permitted period and for this purpose "permitted period" has the same meaning as it has in regulation 3A of the 1987 Regulations(a).

(11) This regulation shall cease to apply, where a beneficiary's benefit week in the week commencing 2nd April 1990—

- (a) begins on that day, on the day immediately following 8th April 1990;
- (b) begins on a day other than that day, on the day immediately following the last day in his benefit week."

Amendment of regulation 37 of the principal regulations

6.—(1) Regulation 37 of the principal regulations (extinguishment of right to payment of sums by way of benefit where payment is not obtained within the prescribed period) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1) at the beginning there shall be inserted "Subject to paragraph (2A),".

(3) After paragraph (2) there shall be inserted the following paragraph—

"(2A) Where a question arises whether the right to payment of any sum by way of benefit has been extinguished by the operation of this regulation and the adjudicating authority is satisfied that—

- (a) the Department has first received written notice requesting payment of that sum after the expiration of 12 months;
- (b) from a day within that period of 12 months and continuing until the day on which written notice was given, there was good cause for not giving the notice;
- (c) the instrument of payment, which has been sent or given to the person to whom it is payable, has been produced to the Department; and
- (d) the Department has certified that no further instrument has been issued as a replacement,

the period of 12 months shall be extended to the date on which the adjudicating authority decides that question, and this regulation shall accordingly apply as though the right to payment had arisen on that date."

Amendment of Schedule 7 to the principal regulations

7.—(1) Schedule 7 to the principal regulations (manner and time of payment, effective date of change of circumstances and commencement of entitlement in income support cases) shall be amended in accordance with paragraphs (2) and (3).

(a) Regulation 3A was inserted by S.R. 1989 No. 395

(2) For paragraph 3 there shall be substituted the following paragraph—

“3.—(1) Subject to any direction given by the Department in accordance with sub-paragraph (2), income support in respect of any benefit week shall, if the beneficiary is entitled to a relevant social security benefit or would be so entitled but for failure to satisfy the contribution conditions or because he had exhausted his entitlement, be paid on the day and at the intervals appropriate to payment of that benefit.

(2) The Department may direct that income support in respect of any benefit week shall be paid at such intervals and on such days as the Department may in any particular case or class of case determine.”.

(3) After paragraph 3 there shall be added the following paragraph—

“3A.—(1) Income support for any part-week shall be paid in accordance with an award on such day as the Department may in any particular case direct.

(2) In this paragraph, “part-week” has the same meaning as it has in Part VII of the Income Support Regulations(a).”.

Amendment of Schedule 8A to the principal regulations

8. In Schedule 8A to the principal regulations (deductions from benefits and direct payment to third parties)—

(a) in paragraph 4(1)—

(i) the words “or Schedule 5 (persons in hostels)”; and

(ii) from “but, except in a case” to the end; and

(b) in paragraph 4(2), head (b),

shall be omitted.

Sealed with the Official Seal of the Department of Health and Social Services on 6th October 1989.

(L.S.)

A. N. Burns

Assistant Secretary

(a) Part VII was inserted by S.R. 1988 No. 146 and amended by S.R. 1988 No. 318 and S.R. 1989 No. 139

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 ("the principal regulations"). They correspond to provision contained in regulations made by the Secretary of State for Social Security 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 omits from regulation 2(1) of the principal regulations that part of the expression "claim for benefit" which deals with an application for review of an earlier determination of a claim for attendance allowance where the application discloses no grounds upon which the determination may be reviewed.

Regulation 3 amends regulation 6 of the principal regulations so as to allow a postal claim for attendance allowance to be treated as having been received in the ordinary course of post where its arrival is delayed by industrial action which disrupts postal services.

Regulation 4 amends regulation 19 of the principal regulations so as to extend the time for claiming benefit where family credit has been in payment to one month from the day following the 14th day after the last day of the previous award.

Regulation 5 inserts regulation 34B into the principal regulations so as to provide for transitional arrangements consequent upon the coming into operation on 9th October 1989 of regulation 10 of, and Schedule 2 to, the Income Support (General) (Amendment) Regulations (Northern Ireland) 1989 for those beneficiaries in hostels and other accommodation which has been treated both as a hostel and residential accommodation, and in respect of whom, before the coming into operation of these regulations, direct payments or payments to another person were made in respect of accommodation costs.

Regulation 6 amends regulation 37 of the principal regulations so as to extend the period for which benefit may be paid where the beneficiary has good cause for submitting a late request for payment to the Department.

Regulation 7 amends Schedule 7 to the principal regulations to provide for the payment of income support for benefit weeks or part-weeks.

Regulation 8 makes consequential amendments to Schedule 8A to the principal regulations by omitting references to hostels.