

1989 No. 40

SOCIAL SECURITY

**The Social Security (Claims and Payments)
(Amendment) Regulations (Northern Ireland) 1989**

Made 14th February 1989

Coming into operation—

*For the purposes of regulations 2,
6(4)(a) and 7* 10th April 1989

For all other purposes 27th February 1989

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 104(5)(b) and 154A(1) of the Social Security (Northern Ireland) Act 1975(a) and Article 52(1) of the Social Security (Northern Ireland) Order 1986(b) 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) 1989 and shall come into operation for the purposes of regulations 2, 6(4)(a) and 7 on 10th April 1989 and for all other purposes on 27th February 1989.

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

(3) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendment of regulation 3 of the principal regulations

2. In regulation 3 of the principal regulations (claims not required for entitlement to benefit in certain cases) after paragraph (d) there shall be added the following paragraph—

“(e) in the case of retirement allowance(e).”.

(a) 1975 c. 15; section 104(5) was inserted by Article 53 of, and paragraph 9 of Schedule 5 to, the Social Security (Northern Ireland) Order 1986. Section 154A was inserted by Article 17 of the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)) and substituted by paragraph 56 of Schedule 9 to the Social Security (Northern Ireland) Order 1986

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

(c) S.R. 1987 No. 465; the relevant amending regulations are S.R. 1988 Nos. 67 and 141

(d) 1954 c. 33 (N.I.)

(e) See section 59B of the Social Security (Northern Ireland) Act 1975 (c. 15) which was inserted by Article 4(1) of the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2)) and comes into operation on 10th April 1989 by virtue of Article 2(a) of the Social Security (1988 Order) (Commencement No. 3) Order (Northern Ireland) 1988 (S.R. 1988 No. 380 (C. 12))

Amendment of regulation 9 of the principal regulations

3. In regulation 9(3) of the principal regulations (interchange with claims for other benefits) for “of” in the third place where it occurs there shall be substituted “in”.

Amendment of regulation 26 of the principal regulations

4. In regulation 26 of the principal regulations (income support)—

(a) in paragraph (2)—

- (i) after “increased” there shall be inserted “or reduced”,
- (ii) after “increase” in the first place where it occurs there shall be inserted “or reduction”, and
- (iii) after “increase” in the second place where it occurs there shall be inserted “or disregard the reduction”;

(b) for paragraph (3) there shall be substituted the following paragraph—

“(3) Where income support is payable to a beneficiary by means of a book of serial orders and a payment to a third party under Schedule 8A is increased on review so that the amount of income support payable to the beneficiary is reduced by an amount which with any previous reduction is less than 50 pence per week, the Department may make the payment to the third party and disregard the reduction in respect of the beneficiary for the period to which the book relates.”;

(c) in paragraph (4) for “is paid” there shall be substituted “may be paid”.

Amendment of Schedule 7 to the principal regulations

5.—(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).

(2) After paragraph 2 (time of payment) there shall be inserted the following paragraph—

“2A.—(1) For the purposes of this paragraph—

- (a) “public holiday” means, as the case may be, Christmas Day or a Bank Holiday under the Banking and Financial Dealings Act 1971(a); and
- (b) “office closure” means a period during which a social security office is closed in connection with a public holiday.

(2) Where income support is normally paid in arrears and the day on which the benefit is payable by reason of paragraph 3 is affected by office closure it may for that benefit week be paid wholly in advance or partly in advance and partly in arrears and on such day as the Department may direct.

(3) Where under this paragraph income support is paid either in advance or partly in advance and partly in arrears it shall for any other purposes be treated as if it were paid in arrears.”.

(3) In paragraph 7 (date when change of circumstances is to take effect)—

(a) in sub-paragraph (1)—

(i) in head (b) for “next following such day” there shall be substituted “next following such day, and”, and

(ii) after head (b) (so as to follow on from it and form a full-out provision to sub-paragraph (1)) there shall be added the words—
“for the purposes of this paragraph any period of residence in temporary accommodation pursuant to arrangements for training under section 1 of the Employment and Training Act (Northern Ireland) 1950(a) for a period which is expected to last for seven days or less shall not be regarded as a change of circumstances.”;

(b) in sub-paragraph (4) for “in sub-paragraph (3)(b) to (f)” there shall be substituted “in sub-paragraph (3)(b), (c), (e), (f) and (g)”;

(c) after sub-paragraph (4) there shall be added the following sub-paragraph—

“(4A) Where, in the case set out in sub-paragraph (3)(d), the circumstances which have caused the award to be changed cease to apply and the award is changed again that change of circumstances shall be treated as taking effect from the day after the date of the second change.”.

Amendment of Schedule 8A to the principal regulations

6.—(1) Schedule 8A to the principal regulations (deductions from benefit and direct payment to third parties) shall be amended in accordance with paragraphs (2) to (5).

(2) In paragraph 1 (interpretation)—

(a) in the definition of “applicable amount” for “regulation 17(a) to (d) or regulation 18(a) to (e)” there shall be substituted “regulation 17(1)(a) to (d) or regulation 18(1)(a) to (e)”;

(b) for the definition of “income support” there shall be substituted the following definition—

“ “income support” means income support under Part III of the Order and includes transitional addition, personal expenses addition and special transitional addition as defined in the Income Support (Transitional) Regulations (Northern Ireland) 1987(b);”.

(3) In paragraph 3(1) (housing costs) for “regulation 17(e) or regulation 18(f)” there shall be substituted “regulation 17(1)(e) or regulation 18(1)(f)”.

(4) In paragraph 4 (miscellaneous accommodation costs)—

(a) in sub-paragraph (1) the words “board and lodging accommodation or” shall be omitted;

(a) 1950 c. 29 (N.I.); section 1 was substituted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

(b) S.R. 1987 No. 460, to which there are amendments not relevant to these regulations

(b) in sub-paragraph (2)—

(i) for “In relation to miscellaneous accommodation costs the amount” there shall be substituted “Subject to sub-paragraph (3), in relation to miscellaneous accommodation costs the amount”,

(ii) in head (c) for “under paragraph 13(1)” there shall be substituted “under paragraph 13(1)(a), (b), (c) or (e)”;

(c) after sub-paragraph (2) there shall be added the following sub-paragraph—

“(3) In relation to miscellaneous accommodation costs, where an award of income support is calculated in accordance with Part VII of the Income Support Regulations (calculation of income support for part-weeks)(a) the amount of any payment of income support to a third party determined under sub-paragraph (1) shall be—

(a) where the amount is calculated under regulation 73(1) of the Income Support Regulations an amount calculated in accordance with sub-paragraph (2)(a), (b) or as the case may be (c), divided by the number of days in the part-week; or

(b) where the amount is calculated under regulation 73(2) of those regulations an amount calculated in accordance with regulation 73(4)(a)(i) or (b)(i) of those regulations, as the case may be;

and no payment shall be made to a third party under this sub-paragraph where the Department certifies it would be impracticable to do so in that particular case.”

(5) In paragraph 9(1)(b) (priority as between debts) for “paragraph 2(a)” there shall be substituted “paragraph 2(1)(a)”.

Revocations

7. In paragraph 7 of 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)—

(a) sub-paragraph (3)(e); and

(b) sub-paragraph (4) to the extent that it relates to sub-paragraph (3)(e), are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 14th February 1989.

(L.S.)

A. N. Burns

Assistant Secretary

(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 is consequential upon the insertion of section 59B into the Social Security (Northern Ireland) Act 1975 by the Social Security (Northern Ireland) Order 1988. It amends regulation 3 of the principal regulations by extending the benefits for which no claim is required to include retirement allowance.

Regulation 4 amends regulation 26 of the principal regulations so that increases and reductions in income support are treated in the same way.

Regulation 5(2) inserts a new paragraph 2A into Schedule 7 to the principal regulations to allow payments to be made in advance, or partly in advance and partly in arrears, of public holidays where income support is normally paid in arrears. Regulation 5(3) amends paragraph 7 of that Schedule to treat in the same way, for the payment of income support, hospital patients whose pattern of stay in hospital is irregular and those patients who have regular home visits.

Regulation 6(4) amends paragraph 4 of Schedule 8A to the principal regulations for the purposes of income support to—

- (1) take account of the termination of arrangements for meeting the accommodation charge for board and lodging accommodation;
- (2) extend the arrangements for payments to third parties in respect of accommodation costs to allow their use in the case of certain part-week payments.

Regulations 3 and 6(2), (3) and (5) make minor amendments.

Regulation 7 contains revocations.