

1992 No. 271

SOCIAL SECURITY

**The Social Security (Claims and Payments)
(Amendment No. 2) Regulations (Northern Ireland) 1992**

Made

12th June 1992

Coming into operation in accordance with regulation 1(1)

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 52(1)(g) and 52A(2) to (4) of the Social Security (Northern Ireland) Order 1986(a) and Article 5(1) of the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992(b) and of all other powers enabling it in that behalf, after consultation with such organisations representing qualifying lenders likely to be affected by the regulations as it considers appropriate(c), 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) 1992 and shall come into operation as follows—

- (a) regulation 1 and regulations 2 and 5 insofar as they relate to paragraphs 1 and 8 of Schedule 8B to the principal regulations, on 13th June 1992; and
- (b) for all other purposes—
 - (i) to the extent that they relate to claims for any relevant benefit made on or after 6th July 1992, or made before 6th July 1992 but determined on or after that date, on 6th July 1992, and
 - (ii) in any other case, in relation to a particular beneficiary, on the date the first determination is made by an adjudication officer in respect of that beneficiary's award of any relevant benefit on or after 6th July 1992.

(2) In these regulations—

“the principal regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(d);

“relevant benefits” has the same meaning as in paragraph 1 of Schedule 8B to the principal regulations(e).

(a) S.I. 1986/1888 (N.I. 18); Article 52A was inserted by Article 3(1) of the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992 (S.I. 1992/1309 (N.I. 9))

(b) S.I. 1992/1309 (N.I. 9)

(c) See Article 52A(2) of the Social Security (Northern Ireland) Order 1986

(d) S.R. 1987 No. 465; relevant amending regulations are S.R. 1988 Nos. 67, 141 and 369, S.R. 1989 No. 40, S.R. 1990 No. 398 and S.R. 1991 No. 488

(e) Schedule 8B is inserted by regulation 5 of, and the Schedule to, these regulations

Insertion of regulation 34ZA into the principal regulations

2. After regulation 34 of the principal regulations (payment to another person on the beneficiary's behalf) there shall be inserted the following regulation—

“Deductions of mortgage interest which shall be made from benefit and paid to qualifying lenders

34ZA.—(1) In relation to cases to which Article 52A(1) of the Order (payment out of benefit of sums in respect of mortgage interest, etc.) applies and in the circumstances specified in Schedule 8B, such part of any relevant benefits to which a relevant beneficiary is entitled as may be specified in that Schedule shall be paid by the Department directly to the qualifying lender and shall be applied by that lender towards the discharge of the liability in respect of that mortgage interest.

(2) The provisions of Schedule 8B shall have effect in relation to mortgage interest payments.”

Amendment of regulation 34A of the principal regulations

3. In regulation 34A(1) of the principal regulations (deductions from benefits and direct payment to third parties) for the words preceding “may be made from benefits and” there shall be substituted—

“Deductions which may be made from benefits and paid to third parties

34A.—(1) Except as provided for in regulation 34ZA and Schedule 8B, deductions”.

Amendment of Schedule 8A to the principal regulations

4.—(1) Schedule 8A to the principal regulations (deductions from benefits and direct payment to third parties) shall be amended in accordance with paragraphs (2) to (4).

(2) In paragraph 3 (housing costs)—

(a) in sub-paragraph (1)—

(i) for “sub-paragraph (3)” there shall be substituted “sub-paragraphs (3) to (5)”, and

(ii) for “sub-paragraphs (2) and (3)” there shall be substituted “sub-paragraphs (2), (2A) and (3)”;

(b) in sub-paragraph (2) at the beginning there shall be inserted “Subject to sub-paragraph (2A),”;

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

“(2A) Where a payment falls to be made to a third party in accordance with this Schedule and—

(a) more than one item of housing costs falls to be taken into account in determining the beneficiary's applicable amount; and

(b) in accordance with paragraph 10 (restriction on meeting housing costs) or 11 (non-dependant deductions) of Schedule 3 to the Income Support Regulations an amount is not allowed or a deduction falls to be made from the amount to be met by way of housing costs,

then in calculating the amount deductible, the weekly aggregate ascertained in accordance with sub-paragraph (2) shall be reduced by an amount determined by applying the formula—

$$C \times \frac{B}{A}$$

where—

A = housing costs;

B = the item of housing costs which falls to be paid to a third party under this Schedule;

C = the sum which is not allowed or falls to be deducted in accordance with paragraph 10 or, as the case may be, paragraph 11 of Schedule 3 to the Income Support Regulations.”; and

(d) after sub-paragraph (3) there shall be added the following sub-paragraphs—

“(4) No amount shall be paid pursuant to this paragraph in respect of mortgage interest in any case where a specified part of relevant benefits—

(a) is required to be paid directly to a qualifying lender under regulation 34ZA and Schedule 8B; or

(b) would have been required to be paid to a body which, or a person who, would have been a qualifying lender but for an election given under paragraph 8 of Schedule 8B not to be regarded as such.

(5) In sub-paragraph (4) “specified part” and “relevant benefits” have the same meaning as in paragraph 1 of Schedule 8B.”.

(3) In paragraph 8 (aggregate amounts and maximum amount of payments to third parties)—

(a) in sub-paragraph (2) after “and 7(3)” there shall be inserted “and paragraph 3(5) of Schedule 8B”; and

(b) after sub-paragraph (3) there shall be added the following sub-paragraph—

“(4) Where the aggregate of the amounts payable under the provisions mentioned in sub-paragraph (3) does not exceed the sum there mentioned (“the specified sum”) but does exceed that sum where the aggregate includes in addition any amount required to be paid in accordance with paragraph 3(5) of Schedule 8B, then in relation to the amounts payable under the provisions mentioned in sub-paragraph (3) the consent of the beneficiary is required to the payment of so much of the specified sum as represents the amount by which that sum is so

exceeded and where the beneficiary does not so consent the adjudicating authority shall determine that an amount equal to the specified sum shall be paid.”.

- (4) In paragraph 9(1) (priority as between debts)—
- (a) after “applicable to the beneficiary” there shall be inserted “or one or more of those paragraphs are applicable to the beneficiary and Schedule 8B also applies”; and
- (b) after “priorities shall apply—” there shall be inserted the following head—
“(za) any liability mentioned in Schedule 8B;”.

Insertion of Schedule 8B into the principal regulations

5. After Schedule 8A to the principal regulations there shall be inserted as Schedule 8B the Schedule set out in the Schedule to these regulations.

Sealed with the Official Seal of the Department of Health and Social Services on 12th June 1992.

(L.S.)

A. N. Burns

Assistant Secretary

DEDUCTIONS OF MORTGAGE INTEREST FROM
BENEFIT AND PAYMENT TO QUALIFYING LENDERS*Interpretation*

1. In this Schedule—

"5 per cent. of the personal allowance for a single claimant aged not less than 25 years" means where the percentage is not a multiple of 5 pence the sum obtained by rounding that 5 per cent. to the next higher such multiple;

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(a);

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

"relevant benefits" means income support and, where payable in addition to income support, unemployment benefit, sickness benefit, invalidity benefit, retirement pension, severe disablement allowance, widow's pension or widowed mother's allowance;

"specified part" shall be construed in accordance with paragraph 3.

Specified circumstances

2.—(1) The circumstances referred to in regulation 34ZA are that—

(a) the amount to be met under paragraph 7 (interest on loans to acquire an interest in the dwelling occupied as the home) or, as the case may be, paragraph 8 (interest on loans for repairs and improvements to the dwelling occupied as the home) of Schedule 3 to the Income Support Regulations in determining the relevant beneficiary's applicable amount is 100 per cent. of the eligible interest in his case; and

(b) the relevant benefits to which the relevant beneficiary is entitled are payable in respect of a period of 7 days or a multiple of such period.

(2) For the purposes of determining whether 100 per cent. of the eligible interest referred to in sub-paragraph (1)(a) is met in determining a relevant beneficiary's applicable amount, no account shall be taken of any amounts not allowed under paragraph 10 (restriction on meeting housing costs) or deducted under paragraph 11 (non-dependant deductions) of Schedule 3 to the Income Support Regulations.

(3) In this paragraph "eligible interest" has the same meaning as in paragraph 7(3) of Schedule 3 to the Income Support Regulations.

Specified part of relevant benefit

3.—(1) Subject to sub-paragraphs (2) to (8), the part of any relevant benefits which shall be paid by the Department directly to a qualifying lender ("the specified part") is a sum equal to the amount of the mortgage interest to be met under paragraphs 7 and 8 of Schedule 3 to the Income Support Regulations.

(a) S.R. 1987 No. 459; relevant amending provisions are S.R. 1988 Nos. 146, 318 and 431, S.R. 1989 Nos. 139 and 395, S.R. 1990 Nos. 131, 346 and 387, S.R. 1991 No. 474 and S.R. 1992 Nos. 18 and 147

(2) Where, in determining a relevant beneficiary's applicable amount for the purposes of income support, an amount is not allowed or a deduction falls to be made in accordance with paragraph 10 or 11 of Schedule 3 to the Income Support Regulations the specified part referred to in sub-paragraph (1) is the mortgage interest minus the amount not allowed or, as the case may be, the deduction made.

(3) Where, in determining a relevant beneficiary's applicable amount for the purposes of income support—

(a) a sum in respect of housing costs is brought into account in addition to a sum in respect of mortgage interest; and

(b) in accordance with paragraph 10 or 11 of Schedule 3 to the Income Support Regulations an amount is not allowed or a deduction falls to be made from the amount to be met under that Schedule,

the specified part referred to in sub-paragraph (1) is the mortgage interest minus a sum calculated by applying the formula—

$$C \times \frac{B}{A}$$

where—

A = the eligible housing costs within the meaning of paragraph 1 of Schedule 3 to the Income Support Regulations;

B = the mortgage interest to be met under paragraphs 7 and 8 of Schedule 3 to the Income Support Regulations which is payable to a qualifying lender by the borrower;

C = the sum which is not allowed or falls to be deducted in accordance with paragraph 10 or 11 of Schedule 3 to the Income Support Regulations.

(4) Where a payment is being made under a policy of insurance taken out by a beneficiary to insure against the risk of his being unable to maintain repayments of mortgage interest to a qualifying lender, the amount of any relevant benefits payable to that lender shall be reduced by a sum equivalent to so much of the amount payable under the policy of insurance as represents payments in respect of mortgage interest.

(5) Subject to sub-paragraphs (6) to (8), where the borrower is in arrears with the payment of mortgage interest on a loan which he is liable to make to a qualifying lender, the specified part shall include a sum equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 years ("an additional sum").

(6) Where the borrower is in arrears with the payment of mortgage interest in respect of more than one loan, the additional sum included in the specified part under sub-paragraph (5) shall not exceed 3 times a sum equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 years.

(7) Except in relation to an award of income support made before 6th July 1992, where, as a result of the operation of paragraph 7(1)(b)(ii) of Schedule 3 to the Income Support Regulations, the borrower is in arrears with the payment of mortgage interest on a loan which he is liable to make to a qualifying lender no additional sum shall be included in the specified part by reference to those arrears.

(8) Where the amount of any relevant benefits to which a relevant beneficiary is entitled is less than the sum which would, but for this sub-paragraph, have been the specified part, the specified part shall be the amount of any relevant benefits to which the relevant beneficiary is entitled less 10p.

More than one loan

4.—(1) Subject to sub-paragraphs (2) to (4), where the borrower is liable to pay mortgage interest in respect of two or more different loans, the Department shall pay to the qualifying lender or, if there is more than one qualifying lender, to each qualifying lender—

- (a) a sum equal to the mortgage interest to be met under paragraphs 7 and 8 of Schedule 3 to the Income Support Regulations in respect of each loan made by that lender, plus
- (b) any additional amount attributable to a particular loan which may, under paragraph 3(5), have been taken into account in calculating the specified part.

(2) If, by virtue of deductions made under either paragraph 3(2) or 3(3), the specified part is less than the amount payable by the borrower in respect of mortgage interest, the sum payable under sub-paragraph (1)(a) shall be minus such proportion of the sum subtracted under those sub-paragraphs as is attributable to the particular loan.

(3) Paragraph 3(4) shall apply to this paragraph as it applies to paragraph 3.

(4) Where the specified part is the part referred to in paragraph 3(8), the Department shall pay the specified part directly to the qualifying lenders to whom mortgage interest is payable by the borrower in order of the priority of mortgages.

Time and manner of payments

5. Payments to qualifying lenders under regulation 34ZA and this Schedule shall be made in arrears at intervals of 4 weeks.

Fees payable by qualifying lenders

6. For the purposes of defraying the expenses of the Department in administering the making of payments a qualifying lender shall pay to the Department a fee of £2.50 in respect of each payment made under regulation 34ZA and this Schedule.

Qualifying lenders

7. Any body incorporated under—

- (a) the Companies (Northern Ireland) Order 1986(a); or
- (b) the Companies Act 1985(b),

whose main objects include the making of loans secured by a mortgage of or a charge over land shall be a qualifying lender.

Election not to be regarded as a qualifying lender

8.—(1) A body which, or a person who, would otherwise be a qualifying lender may elect not to be regarded as such by giving notice of election to the Department in accordance with sub-paragraphs (2) and (3).

- (2) Subject to sub-paragraph (3), notice of election shall be given in writing—
 - (a) in the case of the financial year 1992-1993, before 3rd July 1992 and shall take effect on that date; and
 - (b) in the case of any other financial year, before 1st February in the preceding year and shall take effect on 1st April following the giving of the notice.

(a) S.I. 1986/1032 (N.I. 6)

(b) 1985 c. 6

(3) A body which, or a person who, becomes a qualifying lender during a financial year and wishes to elect not to be regarded as such shall give notice of election in writing within a period of 6 weeks from the date on which the body or person became a qualifying lender.

(4) Regulation 34ZA shall not apply to a body which, or a person who, becomes a qualifying lender during a financial year for a period of 6 weeks from the date on which the body or person became a qualifying lender unless, either before the start of that period or at any time during that period, the body or person notifies the Department in writing that this sub-paragraph should not apply.

(5) A body which, or a person who, has made an election under this paragraph may revoke that election by giving notice in writing to the Department before 1st February in any financial year and the revocation shall take effect on 1st April following the giving of the notice.

(6) Where a notice under this paragraph is sent by post it shall be treated as having been given on the day it was posted.

Provision of information

9.—(1) A qualifying lender shall provide the Department with information relating to—

- (a) the mortgage interest payable by a borrower;
- (b) the amount of the loan;
- (c) the purpose for which the loan is made;
- (d) the amount outstanding on the loan on which the mortgage interest is payable; and

(e) any change in the amount of interest payable by the borrower, at the times specified in sub-paragraphs (2) and (3).

(2) The information referred to in sub-paragraph (1)(a), (b), (c) and (d) shall be provided at the request of the Department when a claim for income support is made and a sum in respect of mortgage interest is to be brought into account in determining the applicable amount.

(3) The information referred to in sub-paragraph (1)(d) and (e) shall be provided at the request of the Department—

- (a) when income support ceases to be paid to a relevant beneficiary; and
- (b) once every 12 months notwithstanding that, in relation to head (d), the information may already have been provided during the period of 12 months preceding the date of the Department's request.

Recovery of sums wrongly paid

10.—(1) Where sums have been paid to a qualifying lender under regulation 34ZA and this Schedule which ought not to have been paid for one or both of the reasons mentioned in sub-paragraph (2) the qualifying lender shall, at the request of the Department, repay the sum overpaid.

(2) The reasons referred to in sub-paragraph (1) are—

- (a) that the rate at which the borrower pays mortgage interest has been reduced or the amount outstanding on the loan has reduced and as a result of this reduction the applicable amount of the relevant beneficiary has also been reduced but no corresponding reduction was made to the specified part; or
- (b) subject to sub-paragraph (3), that the relevant beneficiary has ceased to be entitled to any relevant benefits.

(3) A qualifying lender shall only repay sums which ought not to have been paid for the reason mentioned in sub-paragraph (2)(b) if the Department has requested that lender to repay the sums within a period of 4 weeks starting with the last day on which the relevant beneficiary was entitled to any relevant benefits."

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 ("the principal regulations") and are consequential upon the coming into operation of the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992. They make in relation to Northern Ireland only provision corresponding 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 inserts regulation 34ZA into the principal regulations which requires the Department to pay part of a beneficiary's benefit directly to a qualifying lender and requires that lender to apply the benefit so paid towards the discharge of the beneficiary's liability to pay mortgage interest.

Regulations 3 and 4 amend regulation 34A of, and Schedule 8A to, the principal regulations.

Regulation 5 inserts Schedule 8B into the principal regulations. In this Schedule—

- (a) paragraph 1 contains provisions relating to interpretation;
- (b) paragraph 2 prescribes the circumstances in which regulation 34ZA of the principal regulations applies;
- (c) paragraph 3 prescribes the part of a beneficiary's benefit which is to be paid directly to a qualifying lender;
- (d) paragraph 4 sets out how the part of a beneficiary's benefit shall be paid directly when he is liable to pay mortgage interest on more than one loan;
- (e) paragraph 5 provides for the time and manner of direct payments;
- (f) paragraph 6 prescribes the fees to be paid by qualifying lenders;
- (g) paragraph 7 prescribes the bodies which are qualifying lenders;
- (h) paragraph 8 enables a qualifying lender to elect not to be regarded as such;
- (i) paragraph 9 specifies the information which a qualifying lender must give to the Department; and
- (j) paragraph 10 contains provisions relating to the recovery of sums wrongly paid.