

1994 No. 345

SOCIAL SECURITY

The Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 1994

Made 6th September 1994

Coming into operation 3rd October 1994

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 5(1)(a), (c), (g), (j), (n), (p) and (q) of the Social Security Administration (Northern Ireland) Act 1992(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) 1994 and shall come into operation on 3rd October 1994.

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

Amendment of the Social Security (Claims and Payments) Regulations

2.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(c) shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 6(9) (date of claim) for “In paragraph (8)” there shall be substituted “In paragraphs (8) and (8A)”.

(3) In regulation 13 (advance claims and awards)—

(a) in paragraph (3) for “Subject to paragraph (4), this regulation does not” there shall be substituted “Subject to paragraph (4), paragraphs (1) and (2) do not”; and

(b) after paragraph (5) there shall be added the following paragraph—

“(6) Where a person claims family credit or disability working allowance but does not satisfy the requirements for entitlement to that benefit on the date on which the claim is made, and the adjudicating authority is of the opinion that he will satisfy those requirements for a

(a) 1992 c. 8

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

(c) S.R. 1987 No. 465; relevant amending regulations are S.R. 1988 No. 67, S.R. 1990 No. 398, S.R. 1991 No. 488, S.R. 1992 Nos. 7 and 83 and S.R. 1993 No. 375

period beginning on a day not more than 3 days after the date on which the claim is made, the adjudicating authority may treat the claim as if made for a period beginning with that day, and award benefit accordingly.”.

(4) In regulation 21(1) (direct credit transfer) after “spouse” in both places where it occurs there shall be inserted “or partner”.

(5) In regulation 30(6B) (payments on death)—

(a) in sub-paragraph (b) the words “and the Department has appointed him” shall be omitted; and

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

“(ba) that that person has been appointed by the Department to make the claim;”.

(6) After regulation 36A (suspension in identical cases) there shall be inserted the following regulations—

“Withholding of benefit in prescribed circumstances

36AA.—(1) Where a person who is in receipt of benefit fails to comply with the provisions of regulation 32(1) (information to be given when obtaining payment of benefit), in so far as they relate to documents, information or facts required by the Department, that benefit may be withheld, in whole or in part, from a date not earlier than 28 days after the date on which the requirement is imposed.

(2) Where the Department is satisfied that the last known address of a person who is in receipt of benefit is not the address at which that person is residing or that a serious doubt exists as to whether that person is residing at that address, that benefit may be withheld from the date on which the Department is so satisfied or such later date as it may determine.

(3) Where it appears to the Department that a person who is claiming income support is, under the provisions of regulation 8 (attendance in person), required to attend a social security office in person, but that person has failed to do so, benefit may be withheld from a date not earlier than the date following that on which that person last attended a social security office under the provisions of regulation 8.

(4) Where a person—

(a) claims any benefit, and entitlement to that benefit depends on his being incapable of work during the period to which his claim relates; or

(b) claims income support, but is not required to be available for employment by virtue of paragraph 5 of Schedule 1 to the Income Support (General) Regulations (Northern Ireland) 1987(a) (persons not required to be available for work),

and that person fails to provide evidence of incapacity in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(a) (evidence of incapacity for work and confinement), that benefit may be withheld from the date from which he has ceased to comply with the requirements of that regulation, or as soon as practicable thereafter.

Payment of withheld benefit

36AB.—(1) Subject to paragraph (2), where the circumstances in which any benefit that has been withheld under the provisions of regulation 36AA no longer exist, and—

- (a) the Department is satisfied that no question arises in connection with the award of that benefit, payment of that benefit shall be made;
- (b) a question arises in connection with the award of that benefit and that question has been determined, payment of benefit that the beneficiary is entitled to in accordance with that determination shall be made.

(2) Subject to paragraph (3)—

- (a) a payment of any sum by way of benefit shall not be made under paragraph (1) after the expiration of a period of 12 months from the date the right to that payment arose;
- (b) where a person from whom benefit has been withheld satisfies the adjudicating authority that there was good cause for his failure to act from a day within the period specified in sub-paragraph (a) and continuing after the expiration of that period, the period specified in that sub-paragraph shall be extended to the date on which the adjudicating authority is so satisfied, or the date on which good cause ceases, whichever is the earlier.

(3) For the purposes of paragraph (2), the following periods shall be disregarded—

- (a) any period during which the Department possesses information which is sufficient—
 - (i) to enable it to be satisfied that no question arises in connection with the award of that benefit, or
 - (ii) to enable it to decide that a question does arise in connection with the award of that benefit; and
- (b) in a case where a question in connection with the award of the benefit arises, the period commencing on the date the question is submitted to an adjudication officer and ending on the date that question is finally determined.”.

(a) S.R. 1976 No. 175; relevant amending regulations are S.R. 1982 No. 153, S.R. 1987 No. 117 and S.R. 1992 No. 83

(7) In Schedule 8A (deductions from benefits and direct payment to third parties) in paragraph 6(1) (fuel costs) for “, including any charges for reconnection of gas or electricity,” there shall be substituted “, including any charges for reconnection of gas or disconnection or reconnection of electricity,”.

Revocations

3. Regulation 7(10)(a) of the Social Security (Miscellaneous Provisions) (Amendment) Regulations (Northern Ireland) 1990(a) and regulation 6(4)(a) of the Social Security (Miscellaneous Provisions) (Amendment) Regulations (Northern Ireland) 1991(b) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 6th September 1994.

(L.S.)

W. G. Purdy

Assistant Secretary

(a) S.R. 1990 No. 398

(b) S.R. 1991 No. 488

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").

Regulation 2(2) makes a minor correcting amendment to regulation 6 of the principal regulations.

Regulation 2(3) amends regulation 13 of the principal regulations so as to allow a claim for family credit or disability working allowance to be treated as made for a period commencing up to 3 days later than the date on which the claim is made.

Regulation 2(4) amends regulation 21 of the principal regulations so as to enable payments of benefit by direct credit transfer to be made to non-spouse partners in addition to spouses.

Regulation 2(5) amends regulation 30 of the principal regulations to provide the same time limits for a claim made by an appointee for reduced earnings allowance or disablement benefit as for other benefits within the scope of that regulation.

Regulation 2(6) inserts regulations 36AA and 36AB into the principal regulations to provide for benefit to be withheld in various circumstances and for withheld payments to be made where those circumstances no longer exist.

Regulation 2(7) amends Schedule 8A to the principal regulations so as to enable deductions from benefit and payments to third parties to be made in connection with costs arising out of the disconnection of electricity.

Regulation 3 contains consequential revocations.

These regulations 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 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.