

1994 No. 396

SOCIAL SECURITY

**The Social Security (Adjudication) (Amendment No. 3)
Regulations (Northern Ireland) 1994**

Made 19th October 1994

Coming into operation 14th November 1994

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 59(1) 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 (Adjudication) (Amendment No. 3) Regulations (Northern Ireland) 1994 and shall come into operation on 14th November 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 (Adjudication) Regulations

2.—(1) Regulation 64 of the Social Security (Adjudication) Regulations (Northern Ireland) 1987(c) (income support and social fund questions not immediately determinable) shall be amended in accordance with paragraphs (2) and (3).

(2) For paragraphs (1) and (2) there shall be substituted the following paragraphs—

“(1) Where on consideration of a claim or question relating to income support or to payment of maternity expenses from the social fund under Part VIII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(d) it appears to an adjudication officer that the claimant’s entitlement to, or the rate or amount of, such benefit depends on the determination of—

(a) the question as to what housing costs are to be included in the claimant’s applicable amount by virtue of regulation 17(1)(e) (applicable amounts) or 18(1)(f) (polygamous marriages) of, and Schedule 3 (housing costs) to, the Income Support (General)

(a) 1992 c. 8

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

(c) S.R. 1987 No. 82; relevant amending regulations are S.R. 1987 No. 466 and S.R. 1989 No. 397

(d) 1992 c. 7

Regulations (Northern Ireland) 1987(a) and the adjudication officer is satisfied that not all of those housing costs can be immediately determined, he shall proceed to determine the claim or question on the assumption that the housing costs to be included in the claimant's applicable amount are those that can be immediately determined;

- (b) any of the questions mentioned in paragraph (3), and the adjudication officer is satisfied that the question cannot be immediately determined, he shall proceed to determine the claim or question on the assumption that the determination of the question so mentioned will be adverse to the claimant.

(2) Without prejudice to the power of an adjudication officer to refer any claim or question to an appeal tribunal under section 19(2) of the Administration Act and notwithstanding the provisions of section 20 of that Act, on an appeal to an appeal tribunal in any case where the adjudication officer has applied the provisions of paragraph (1) in relation to any of the questions mentioned or referred to in that paragraph, the tribunal shall not determine any such question until it has been determined by an adjudication officer."

(3) In paragraph (3), after sub-paragraph (g) there shall be added the following sub-paragraph—

- “(h) whether in relation to any claimant the applicable amount includes severe disability premium by virtue of regulation 17(1)(d) or 18(1)(e) of, and paragraph 13 of Schedule 2 to, the Income Support (General) Regulations (Northern Ireland) 1987 (applicable amounts).”

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 19th October 1994.

(L.S.)

W. G. Purdy

Assistant Secretary

(a) S.R. 1987 No. 459; relevant amending provisions are S.R. 1988 Nos. 146, 193, 274, 318 and 431, S.R. 1989 Nos. 139, 249 and 395, S.R. 1990 Nos. 131, 346 and 387, S.R. 1991 No. 474, S.R. 1992 Nos. 6, 85, 147 and 403, S.R. 1993 Nos. 28, 120, 149, 195, 218, 233, 311, 373 and 479 and S.R. 1994 Nos. 74, 77 and 138

(This note is not part of the Regulations.)

These regulations amend the Social Security (Adjudication) Regulations (Northern Ireland) 1987. Regulation 2 amends regulation 64 of those regulations which provides for circumstances in which an adjudication officer can, as an interim measure, proceed to determine claims or questions relating to income support or to payment of maternity expenses from the social fund which depend on answering a listed question on the assumption that the determination of that question will be adverse to the claimant.

The regulation—

- (a) provides that where a question arises as to what housing costs are to be included in a claimant's applicable amount and those costs cannot be immediately determined, an adjudication officer shall proceed to determine a claim or question on the assumption that the housing costs to be included in the claimant's applicable amount are those that can be immediately determined;
- (b) adds the question as to whether severe disability premium is included in a claimant's applicable amount to the list of questions in paragraph (3).

These regulations 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 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.