

1994 No. 45

SOCIAL SECURITY

**The Social Security Benefit (Persons Abroad)
(Amendment) Regulations (Northern Ireland) 1994**

Made 11th February 1994

Coming into operation 8th March 1994

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 113(1)(a) of the Social Security Contributions and Benefits (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 Benefit (Persons Abroad) (Amendment) Regulations (Northern Ireland) 1994 and shall come into operation on 8th March 1994.

(2) In these regulations “the principal regulations” means the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(b).

Amendment of the principal regulations

2.—(1) Regulation 2 of the principal regulations(c) (modification of the Act in relation to sickness benefit, invalidity benefit, severe disablement allowance, unemployability supplement and maternity allowance) shall be amended in accordance with paragraphs (2) to (4).

(2) In paragraph (1)—

(a) at the beginning there shall be inserted “Except as provided by paragraph (1A) or (1B) below,”;

(b) for the words from “sickness benefit” to “maternity allowance” there shall be substituted “any benefit in respect of incapacity”;

(c) after “any day” there shall be inserted “falling within the first 26 weeks beginning with the day following the day on which he left Northern Ireland”;

(d) for “, (c) and (d)” there shall be substituted “and (c)”;

(a) 1992 c. 7

(b) S.R. 1978 No. 114; relevant amending regulations are S.R. 1983 No. 36, S.R. 1984 No. 317, S.R. 1986 No. 303 and S.R. 1990 No. 22

(c) Regulation 2 was amended by regulation 11 of S.R. 1983 No. 36, regulation 15 of S.R. 1984 No. 317, regulation 2 of S.R. 1986 No. 303 and regulation 3 of S.R. 1990 No. 22

(e) in sub-paragraph (c) for “since the absence began; or” there shall be substituted “since the absence began.”; and

(f) sub-paragraph (d) shall be omitted.

(3) After paragraph (1) there shall be inserted the following paragraphs—

“(1A) Subject to paragraph (1B), a person who is in receipt of attendance allowance or disability living allowance shall not by reason of being temporarily absent from Northern Ireland be disqualified for receiving any benefit in respect of incapacity if—

(a) the absence is for the specific purpose of being treated for incapacity which commenced before he left Northern Ireland; or

(b) in the case of sickness benefit and invalidity benefit the incapacity for work is the result of a personal injury of a kind mentioned in section 94(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the absence is for the specific purpose of receiving treatment which is appropriate to that injury; or

(c) on the day on which the absence began he was, and had for the past 6 months continuously been, incapable of work and on the day for which benefit is claimed he has remained continuously so incapable since the absence began.

(1B) A person who is a member of the family of a serving member of the forces and temporarily absent from Northern Ireland by reason only of the fact that he is living with that member shall not by reason of being temporarily absent be disqualified—

(a) for receiving any benefit in respect of incapacity except severe disablement allowance if—

(i) the absence is for the specific purpose of being treated for incapacity which began before he left Northern Ireland; or

(ii) in the case of sickness benefit and invalidity benefit the incapacity for work is the result of a personal injury of a kind mentioned in section 94(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the absence is for the specific purpose of receiving treatment which is appropriate to that injury; or

(iii) on the day on which the absence began he was, and had for the past 6 months continuously been, incapable of work and on the day for which benefit is claimed he has remained continuously so incapable since the absence began, or

(b) for the receipt of severe disablement allowance.”.

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

“(5) In this regulation—

(a) “benefit in respect of incapacity” means sickness benefit, invalidity benefit, severe disablement allowance, an unemployment supplement or a maternity allowance;

- (b) “member of the family of a serving member of the forces” means the spouse, son, daughter, step-son, step-daughter, father, father-in-law, step-father, mother, mother-in-law or step-mother of such a member; and
- (c) “week” means any period of 7 days.”.

Transitional provision

3.—(1) In this regulation “the former regulation 2” means regulation 2 of the principal regulations as in operation immediately before the coming into operation of these regulations.

(2) Where, immediately before the coming into operation of these regulations, a person was absent from Northern Ireland but by virtue of the former regulation 2 was not disqualified for receiving any benefit, allowance or supplement referred to in paragraph (1) of the former regulation 2, that person shall continue not to be disqualified in respect of any day, if he—

- (a) has been continuously absent from Northern Ireland since the coming into operation of these regulations; and
- (b) would, had the former regulation 2 been in operation on that day, have satisfied the provisions of that regulation in respect of that benefit, allowance or supplement.

Revocation

4. Regulation 3 of the Social Security Benefit (Persons Abroad) (Amendment) Regulations (Northern Ireland) 1990(a) is hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 11th February 1994.

(L.S.)

C. P. Moore

Assistant Secretary

(This note is not part of the Regulations.)

These regulations amend regulation 2 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978 ("the principal regulations") which sets out the circumstances in which the disqualification for the receipt of certain benefits during periods of absence from Northern Ireland does not apply.

The benefits concerned are sickness benefit, invalidity benefit, severe disablement allowance, unemployment supplement and maternity allowance. Unemployment supplement ceased to be payable from 6th April 1987 except in the case of beneficiaries in receipt of it immediately before that date: it is still payable in that case — see Part I (unemployment supplement) of Schedule 7 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

The principal effect of the regulations is to restrict entitlement to these benefits to the first 26 weeks of a period of temporary absence from Northern Ireland unless the recipient is either a member of the family of a serving member of the forces who is abroad and with whom he is living, or is a person in receipt of attendance allowance or disability living allowance (regulation 2).

These regulations contain a transitional provision which protects the position in respect of any day for a person who—

- (a) was absent from Northern Ireland immediately before the coming into operation of these regulations and was not subject to the disqualification for receipt of the relevant benefit, allowance or supplement imposed by section 113 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 by virtue of regulation 2 of the principal regulations as in operation immediately before the coming into operation of these regulations ("the former regulation 2");
- (b) has been continuously absent from Northern Ireland since the coming into operation of these regulations; and
- (c) would have satisfied the former regulation 2 on that day (regulation 3).

The regulations contain a consequential revocation (regulation 4).

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.