

1980 No. 1621

SOCIAL SECURITY

The Social Security (General Benefit, Claims and Payments)
Regulations 1980

<i>Made - - - -</i>	28th October 1980
<i>Laid before Parliament</i>	3rd November 1980
<i>Coming into Operation</i>	24th November 1980

The Secretary of State for Social Services, in exercise of powers conferred upon him by sections 81(1), (2)(a) and (4), 82 and 119(3) and (4) of the Social Security Act 1975(a) and of all other powers enabling him in that behalf, after reference to the National Insurance Advisory Committee, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (General Benefit, Claims and Payments) Regulations 1980 and shall come into operation on 24th November 1980.

(2) In these regulations “the General Benefit Regulations” means the Social Security (General Benefit) Regulations 1974(b).

Amendment of the General Benefit Regulations

2.—(1) The following amendments are made to regulation 11 of the General Benefit Regulations (exceptions from disqualification for imprisonment)—

(a) in paragraph (1), for the reference to “paragraph 2(1) of Schedule 10” (which refers to Schedule 10 to the Social Security Act 1973(c)), there is substituted a reference to section 82(5)(b) of the Social Security Act 1975;

(b) in paragraph (6), immediately before paragraph (a) there is inserted—
“and, as respects paragraph (aa), for the purposes also of regulation 12—”

and after paragraph (a) there is inserted the following new paragraph—

(aa) “benefit” means any benefit under the Social Security Act 1975 other than a benefit within Chapters IV or V thereof (benefit for industrial injuries or diseases);”

(c) after paragraph (6) there are added the following new paragraphs—

“(7) Where a person outside Great Britain is undergoing imprisonment or detention in legal custody and, in similar circumstances in Great Britain, he would have been excepted, by the operation of any of the preceding paragraphs of this regulation, from disqualification

(a) 1975 c. 14; section 119(4) was amended by section 2 of, and paragraph 12 of Schedule 1 to, the Social Security Act 1980 (c. 30).

(b) S.I. 1974/2079; the relevant amending instrument is S.I. 1975/1573.

(c) 1973 c. 38.

under the said provisions (referred to in paragraph (1)) for receiving the benefit claimed, he shall not be disqualified for receiving that benefit by reason only of his said imprisonment or detention.

(8) Paragraph (7) applies to increases of benefit rendered not payable under the said provisions as it applies to disqualification for receiving benefit."

(2) In regulation 12(1) of those regulations (suspension of payment of benefit during imprisonment etc) for paragraph (a) there is substituted—

"(a) which is excepted from the operation of section 82(5)(b) of the Social Security Act 1975 by regulation 11(2) or (3), or by either of those paragraphs as applied by regulation 11(7)."

(3) In regulation 13(2) of the General Benefit Regulations (suspension of payment of benefits pending hearing of appeal to the Commissioner) for that part of the paragraph that precedes paragraph (a) there is substituted—

"(2) Subject to paragraph (2B), where notice of an appeal by an insurance officer to the Social Security Commissioner from an award of a local tribunal is given or sent to the claimant within a period of 28 days beginning on the date when the insurance officer was given notice in writing of the local tribunal's decision, payment of the benefit (or that part of the benefit) to which the appeal relates shall, in the case of any of the following benefits, be suspended until the appeal has been determined:—"

(4) After paragraph (2) of the said regulation 13 there are inserted the following paragraphs—

"(2A) Where leave is necessary for such an appeal and either—

(a) application for leave having been made by an insurance officer to the chairman of the local tribunal, notice of that application is given or sent to the claimant within the 28 day period referred to in paragraph (2), or

(b) such an application having been refused and an application for leave to appeal having been made by the insurance officer to the Social Security Commissioner, notice of the latter application is given or sent to the claimant within six weeks of the date on which the insurance officer was notified of the refusal of the chairman of the local tribunal to give leave to appeal,

payment of the benefit (or that part of the benefit) to which the application for leave to appeal relates shall, in the case of a benefit referred to in paragraph (2), be suspended until a decision on the application (whether refusing or allowing leave to appeal) is given.

(2B) In a case where leave to appeal is given on an application referred to in paragraph (2A), paragraph (2) shall have effect as if the 28 day period to which it refers began on the date on which notice was given to the insurance officer that leave to appeal had been given."

Insertion of new regulation in the General Benefit Regulations

3. In the General Benefit Regulations immediately after regulation 14 there is inserted the following regulation—

"Repayment by a person who has received payment of benefit on behalf of a beneficiary

14A.—(1) Subsections (1), (2) and (2A) of section 119 of the Social

Security Act 1975 (effect of adjudication on payment and recovery) are modified in accordance with the following paragraphs of this regulation in relation to payments of benefit under that Act, other than mobility allowance, made not to the beneficiary but to some other person on his behalf.

(2) After the words "require repayment", where they first occur in each of those subsections, there is inserted in each case the words "to be made by the beneficiary".

(3) At the end of subsection (1) there is added—

"and, subject to paragraphs (a) and (b), where benefit was paid to a person acting on behalf of the beneficiary that decision shall require repayment to be made to the Secretary of State by that person."

(4) At the end of subsection (2) there is added—

"and shall not require repayment to be made by a person to whom any payment on behalf of the beneficiary was made where it is shown, to the satisfaction of the person or tribunal determining the appeal or review, that in the obtaining and receipt of the benefit the person to whom such payment was made has throughout used due care and diligence to avoid overpayment."

(5) At the end of subsection (2A) there is added—

"; and where payment in respect of such amount of benefit under the earlier decision was made to a person acting on behalf of the beneficiary, the subsequent decision shall require repayment to the Secretary of State under this subsection to be made by the person to whom the payment was made unless it is shown to the satisfaction of the insurance officer, tribunal or Commissioner that in the obtaining and receipt of the benefit that person throughout used due care and diligence to avoid overpayment."

Amendment of the Social Security (Claims and Payments) Regulations 1979

4.—(1) In regulation 16(10) of the Social Security (Claims and Payments) Regulations 1979(a) (effective dates of commencement and change of rate of benefit), for "any regulations" there is substituted "any provision made by statutory instrument under powers conferred by the Act".

(2) In regulation 28(1) of those Regulations (appointment of person to act for a child or person unable to act) before "over the age of 18," there is inserted "who, if a natural person, is".

Patrick Jenkin,
Secretary of State for Social Services.

28th October 1980.

(a) S.I. 1979/628, to which there are amendments not relevant to these Regulations.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Social Security (General Benefit) Regulations 1974 (the "General Benefit Regulations") and the Social Security (Claims and Payments) Regulations 1979.

Regulation 2(1) and (2) excepts persons from disqualification for receiving benefit, and from suspension of payment of benefit, during imprisonment abroad if in similar circumstances in Great Britain they would be so excepted under regulations 11 or 12 of the General Benefit Regulations.

Regulation 13 of the General Benefit Regulations provides for suspension of payment of benefits under a local tribunal award if within 21 days the insurance officer gives notice of appeal to the Social Security Commissioner. Regulation 2(3) and (4) of these Regulations extends that period to 28 days and provides for suspension, in cases where leave to appeal is necessary, during the period when an application for leave to appeal is under consideration, either by the local tribunal chairman, or by the Commissioner.

Regulation 3 adds a new regulation 14A to the General Benefit Regulations which modifies subsections (1)–(2A) of Section 119 of the Social Security Act 1975 in relation to the requirement to repay overpaid benefit, other than mobility allowance, where it was paid to a person acting on behalf of a beneficiary; under the new regulation the person so paid is to be required to repay unless the determining authority is satisfied that throughout he used due care and diligence to avoid overpayment.

Regulation 4 amends the Social Security (Claims and Payments) Regulations 1979. Paragraph (1) makes regulation 16(10) of those Regulations apply not only to "regulations" but to any provision made by statutory instrument under the Social Security Act 1975 concerning the date when benefit commences to be payable or a change of rate occurs. Paragraph (2) modifies a provision that enables one person to act for another.

The Report of the National Insurance Advisory Committee, dated 21st October 1980, on the draft of these Regulations referred to them, together with a statement showing that the Regulations give effect to the Committee's recommendations, is contained in the House of Commons Paper No. 802 (Session 1979/80) published by Her Majesty's Stationery Office.

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