

1983 No. 1000

SOCIAL SECURITY

The Supplementary Benefit (Miscellaneous Amendments) Regulations 1983

<i>Made</i> - - - -	13th July 1983
<i>Laid before Parliament</i>	14th July 1983
<i>Coming into Operation</i>	15th August 1983

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 1(1A), 2, 3, 4, 5, 6, 9, 14, 20 and 34(3) of the Supplementary Benefits Act 1976(a) and of all other powers enabling him in that behalf, after reference to the Social Security Advisory Committee (b), hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations which may be cited as the Supplementary Benefit (Miscellaneous Amendments) Regulations 1983, shall come into operation on 15 August 1983.

(2) In these regulations—

“Aggregation Regulations” means the Supplementary Benefit (Aggregation) Regulations 1981(c);

“Claims and Payments Regulations” means the Supplementary Benefit (Claims and Payments) Regulations 1981(d);

“Conditions of Entitlement Regulations” means the Supplementary Benefit (Conditions of Entitlement) Regulations 1981(e);

“Determination of Questions Regulations” means the Supplementary Benefit (Determination of Questions) Regulations” 1980(f);

“Duplication and Overpayment Regulations” means the Supplementary Benefit (Duplication and Overpayment) Regulations” 1980(g);

(a) 1976 c. 71, as amended by section 6(1) of and Part I of Schedule 2 to the Social Security Act 1980 (c. 30) and sections 38 and 48(5) of and Schedule 4 to the Social Security and Housing Benefits Act 1982 (c. 24).

(b) See sections 9 and 10 of the Social Security Act 1980.

(c) S.I. 1981/1524.

(d) S.I. 1981/1525; the relevant amending instrument is S.I. 1982/907.

(e) S.I. 1981/1526; the relevant amending instrument is S.I. 1982/907.

(f) S.I. 1980/1643; the relevant amending instruments are S.I. 1981/815, 1982/907.

(g) S.I. 1980/1580; the relevant amending instrument is S.I. 1981/815.

“Single Payments Regulations” means the Supplementary Benefit (Single Payments) Regulations 1981(a);

“Trade Disputes Regulations” means the Supplementary Benefit (Trade Disputes and Recovery from Earnings) Regulations 1980(b);

“Urgent Cases Regulations” means the Supplementary Benefit (Urgent Cases) Regulations 1981(c).

Amendment of the Aggregation Regulations

2.—(1) The Aggregation Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(3)(c)(i) (whether or not married couples are to be treated as members of the same household) for the reference to regulation 3 of the Conditions of Entitlement Regulations there shall be substituted a reference to regulation 3(1) and (3) of those regulations.

(3) In regulation 4(2)(e) (dependants not members of the household) after the words “the Child Care Act 1980”, there shall be added the words “or, in relation to Scotland, the Social Work (Scotland) Act 1968”(d).

Amendment of the Claims and Payments Regulations

3. In regulation 3(1) of the Claims and Payments Regulations (manner of claiming) before the words “Every claim for benefit” there shall be inserted the words “Subject to the following provisions of this regulation,”.

Amendment of the Conditions of Entitlement Regulations

4.—(1) The Conditions of Entitlement Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 3 (entitlement during periods of temporary absence):—

(a) in paragraph (1)—

(i) before the words “Where a claimant” there shall be inserted the words “Subject to paragraph (4),”;

(ii) after the words “Great Britain” where they first appear, there shall be inserted the words “other than in Northern Ireland”;

(iii) for the words “not exceeding” there shall be substituted the words “not extending beyond”;

(b) the following new paragraphs shall be added at the end—

“(3) Subject to paragraph (4), a claimant who—

(a) is temporarily absent from Great Britain in Northern Ireland;
and

(a) S.I. 1981/1528; the relevant amending instrument is S.I. 1982/907.

(b) S.I. 1980/1641; the relevant amending instruments are S.I. 1981/815, 1982/907.

(c) S.I. 1981/1529; the relevant amending instrument is S.I. 1982/907.

(d) 1968 c. 49.

- (b) was entitled to a pension or, as the case may be, an allowance for the period immediately preceding that temporary absence; and
- (c) satisfies the conditions of entitlement for such a pension or allowance other than the requirement to be in Great Britain,

shall be entitled to a pension or allowance during his absence from Great Britain, so long as he remains in Northern Ireland, for a period not extending beyond the end of the fourth benefit week which falls within that period of temporary absence.

(4) A person's entitlement to benefit by virtue of paragraph (1) or paragraph (3) or any combination thereof shall not exceed the maximum period of entitlement under either one of them alone."

(3) In regulation 6 (persons not subject to condition of availability for employment):—

- (a) in sub-paragraph (ii) of paragraph (a), after the words "the Child Care Act 1980", there shall be added the words "or, in relation to Scotland the Social Work (Scotland) Act 1968";
- (b) the following paragraph shall be inserted immediately after paragraph (h)—
 "(hh) he is caring for a member of the assessment unit who is temporarily ill where there are no alternative means of caring for that person;"

(4) In regulation 7 (circumstances in which persons are to be treated as available for employment):—

- (a) in paragraph (3)(a), after the word "falling" there shall be inserted the words "after the terminal date and" and after the words "qualifying benefit" there shall be inserted the words "or on a course of training or instruction organised by or on behalf of the Manpower Services Commission as part of the Youth Opportunities Programme or the Youth Training Scheme";
- (b) in paragraph (3)(b)—
 - (i) after the word "falling" there shall be inserted the words "after the terminal date and";
 - (ii) in head (i) after the words "qualifying benefit" there shall be inserted the words "or on a course of training or instruction organised by or on behalf of the Manpower Services Commission as part of the Youth Opportunities Programme or the Youth Training Scheme";
 - (iii) for head (ii) the following head shall be substituted:—
 "(ii) after the first period referred to in head (i) of this sub-paragraph, throughout the remainder of the 6 months for which head (i) did not apply to him, he was engaged in appropriate work";
- (c) in paragraph (4), the following sub-paragraph shall be inserted after sub-paragraph (b):—
 "(bb) 'terminal date' in respect of a claimant has the same meaning as in regulation 10;"

(5) In regulation 8 (circumstances in which persons are not to be treated as available for employment)—

(a) in paragraph (1), for sub-paragraph (g) there shall be substituted the following sub-paragraph:—

“(g) he has been disallowed unemployment benefit on the ground that he failed to claim in the manner prescribed by regulation 4 of the Social Security (Claims and Payments) Regulations 1979(a) by virtue of the fact that the form approved by the Secretary of State for the purpose of claiming was not duly completed so far as it related to his availability for employment.”;

(b) in paragraph (2)(e), for the words “fails to furnish the information” there shall be substituted the words “fails to claim in the manner”.

(6) In regulation 9(3) (circumstances in which persons are to be treated as engaged in remunerative full-time work), the following sub-paragraph shall be inserted after sub-paragraph (a):—

“(aa) a payment of bonus or commission by way of earnings to which paragraph (1)(b) applies, in respect of the same period as other earnings which are paid on a different day, that payment of bonus or commission shall be treated as earnings for the same period as those other earnings;”.

Amendment of the Determination of Questions Regulations

5.—(1) The Determination of Questions Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 5 (reference of questions for adjudication)—

(a) in paragraph (2), for the words “that question shall forthwith” to the end, there shall be substituted the following:—

“that question shall either—

(c) be referred forthwith for decision to an insurance officer appointed in pursuance of section 97(1) of the Social Security Act, or

(d) if the benefit officer, or as the case may be, the Tribunal is of the opinion that the question can be determined on the basis of a decision given or about to be given by a statutory authority in relation to a claim or an award under the Social Security Act or the Child Benefit Act 1975(b), be determined by the benefit officer or the Tribunal itself in accordance with the provisions of this regulation.”;

(b) the following paragraph shall be inserted immediately after paragraph (2):—

“(2A) Where the benefit officer or the Tribunal determines a question under paragraph (2) on the basis of a decision by a statutory authority in relation to a claim or an award under the Social Security Act or the Child Benefit Act 1975, that question shall be determined in accordance with that decision which shall be conclusive for the purposes of the provisions of the Act and regulations made under it.”;

(a) S.I. 1979/628; the relevant amending instrument is S.I. 1982/1344.

(b) 1975 c. 61.

- (c) the following paragraph shall be inserted immediately after paragraph (4):—

“(4A) Where the benefit officer or, as the case may be, the Tribunal is of the opinion that a question can be determined by him or it under paragraph (2) on the basis of a decision which is about to be given by a statutory authority, the benefit officer or the tribunal shall (subject to the provisions of regulation 4(6)(b) as to review) determine the claimant’s supplementary benefit entitlement pending the statutory authority’s decision on the assumption that the decision will be adverse to him.”;

- (d) there shall be added, at the end, the following paragraph:—

“(7) In this regulation “statutory authority” means, as the case may require, an insurance officer, a local tribunal or a Commissioner by whom the relevant question falls to be determined under Part III of the Social Security Act or Part I of the Child Benefit Act 1975.”.

- (3) For regulation 7A (interim payments on account of supplementary benefit) there shall be substituted the following regulation:—

“Interim payments on account of supplementary benefit

7A.—(1) Interim payments (that is to say payments made otherwise than in accordance with the Act under arrangements made by the Secretary of State with the consent of the Treasury pending the determination, whether in the first instance or on an appeal or reference and whether originally or on review, of any claim for supplementary benefit) shall, subject to the following provisions of this regulation, be deemed to be payments of supplementary benefit duly made.

- (2) When a claim for supplementary benefit in connection with which an interim payment has been made is determined by a determining authority—

- (a) if that authority decides that nothing was properly payable by way of supplementary benefit or decides that the amount properly so payable was less than the amount of the interim payment, it may, if appropriate, direct that the whole or part of the interim payment be treated as paid on account of supplementary benefit which is or was properly payable or on account of any benefit under the Social Security Act, but subject as aforesaid it shall direct repayment of the overpayment; and
- (b) if that authority decides that the amount properly payable by way of supplementary benefit equals or exceeds the amount of the interim payment, it shall treat that payment as paid on account of the supplementary benefit properly so payable.

- (3) Unless before an interim payment has been made to a person he, or any person acting for him, has been informed of the effect of sub-paragraph (a) of paragraph (2) as it relates to repayment of an overpayment, repayment of an overpayment shall not be required except where the determining authority is satisfied that in the obtaining and receipt of the interim payment he, or any person acting for him, has, whether fraudulently or otherwise, misrepresented or failed to disclose any material fact.

- (4) An overpayment required to be repaid under the provisions of this regulation shall, without prejudice to any other method of recovery, be

recoverable by deduction from any supplementary benefit or benefit under the Social Security Act then or thereafter payable to the person by whom it is to be repaid or any persons entitled to receive his benefit on his death.”.

(4) In regulation 8 (suspension of benefit pending review or appeal), the existing regulation shall be numbered paragraph (1) and the following new paragraph added at the end:—

“(2) Where it appears to the Secretary of State that a question has arisen whether any amount paid or payable to a person by way of supplementary benefit is recoverable by the Secretary of State under section 20 of the Act by deduction from prescribed benefits or otherwise, he may direct that any payment of arrears of benefit to that person shall be suspended, in whole or in part, pending determination of that question under section 20 or otherwise.”.

Amendment of the Duplication and Overpayment Regulations

6. In regulation 7(1) of the Duplication and Overpayment Regulations (recovery of overpayments from supplementary benefit), for the words “Regulation 6 shall apply to supplementary pension or allowance” there shall be substituted the words “Regulation 6 shall apply without limitation to any payment of arrears of supplementary pension or allowance other than any arrears caused by the operation of regulation 8(1) of the Supplementary Benefit (Determination of Questions) Regulations 1980 but shall apply to the amount of pension or allowance to which a person is presently entitled”.

Amendment of the Single Payments Regulations

7.—(1) The Single Payments Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 3(2)(b) (meaning of single payment)—

(a) the word “either” shall be omitted;

(b) in head (i) for the word “or” there shall be substituted the word “and”;

(c) for head (ii) there shall be substituted the following heads:—

“(ii) does not have available to it a suitable alternative item, and

(iii) has not unreasonably either disposed or failed to avail itself of such an item.”.

(3) In regulation 6(1)(a) (circumstances in which and items for which single payments shall not be made), for the words “the circumstances in question and those circumstances have not changed;” there shall be substituted the words “the item in question and the circumstances surrounding that payment have not changed;”.

(4) In regulations 6(1)(d), 8(1)(c) and (2)(g), 13(1) and 22(1), for the words “Great Britain” wherever they occur there shall be substituted the words “the United Kingdom”.

(5) In regulation 9 (meaning of essential furniture and household equipment), there shall be added, at the end, the following paragraph:—

“(t) safety gates.”

(6) In regulation 10 (purchase, repair and installation of essential furniture and household equipment):—

(a) in paragraph (1)(b), for head (ii) there shall be substituted the following head:—

“(ii) the claimant has, in the opinion of the benefit officer, no immediate prospect of employment and either has been a person in receipt of an allowance for a continuous period of 6 months or has, within the preceding 6 months, been the partner of such a person or”;

(b) in paragraphs (2) and (4), for the words “the claimant” there shall be substituted the words “the assessment unit”;

(c) the following paragraph shall be inserted after paragraph (2):—

“(2A) Where a claim is made for a single payment under this regulation in respect of any item mentioned in regulation 9(c), (d), (i), (j) or (k) and the Secretary of State requests an estimate of the cost of repair to that item under paragraph (4), a single payment shall be made to meet the cost of obtaining such an estimate if incurring the cost is the only means of obtaining the estimate.”;

(d) in paragraph (6), after the words “re-installing on removal” there shall be inserted the words “a carpet from the claimant’s previous home, or”.

(7) In regulation 11 (essential furniture and household equipment on hire purchase):—

(a) in paragraph (1)—

(i) after the words “the claimant” there shall be inserted the words “, or his partner,”;

(ii) for the word “remain” on both occasions where it appears there shall be substituted the word “be”;

(iii) for the words “if he made a claim for it” there shall be substituted the words “if a claim for it were made”;

(b) in paragraph (2) for the words from “the claimant was not” to “a claim for it” there shall be substituted the words “neither the claimant nor his partner was entitled to a pension or allowance and neither would have been so entitled had a claim for it been made”;

(c) in paragraph (3)(a) after the words “the claimant” there shall be inserted the words “or his partner” and for the words “if he had made a claim for it” there shall be substituted the words “if a claim for it had been made;”.

(8) In regulation 13(1)(d) (removal expenses):—

(a) for the words “the claimant’s prospects of employment” there shall be substituted the words “the prospects of employment of the claimant or his partner”;

(b) after the words “he” there shall be inserted the words “or his partner”;

(c) for the word “him” there shall be substituted the words “that person”.

(9) In regulation 17 (essential repairs and maintenance of the home)—

(a) after the words “the claimant” wherever they appear there shall be inserted the words “or his partner”.

- (b) in paragraph (4) after the words “a claimant” there shall be inserted the words “or his partner”.
- (10) In regulation 19(1) (re-decoration):—
- (a) for the words “a claimant’s home” there shall be substituted the words “the home of a claimant or his partner”;
- (b) after the words “the claimant” where they appear in both sub-paragraphs (a) and (b) there shall be inserted the words “or his partner”.
- (11) In regulation 22(1) (travelling expenses):—
- (a) in sub-paragraph (e) for the words “a claimant” there shall be substituted the words “a member of the assessment unit”;
- (b) in sub-paragraphs (f), (g) and (h) for the words “the claimant” wherever they appear there shall be substituted the words “a member of the assessment unit”.
- (12) In regulation 23(1)(a) (expenses on starting work), for the words “the claimant” there shall be substituted the words “a member of the assessment unit”.
- (13) In regulation 25(3) (voluntary repatriation expenses), the words “Northern Ireland” shall be omitted.
- (14) In regulation 26 (fuel costs):—
- (a) in paragraph (1), for the words “in respect of a claimant’s fuel costs” there shall be substituted the words “to meet the fuel costs of the assessment unit” and for the words “which he has put aside” there shall be substituted the words “which has been put aside”;
- (b) for sub-paragraph (b) of paragraph (1) there shall be substituted the following sub-paragraph—
- “(b) the members of the assessment unit are unfamiliar with the cost of running the heating system in their home because they have recently moved to that home or the system has recently been installed”;
- (c) in paragraph (2)(b), for the words “one half of the aggregate” to the end there shall be substituted the following words:—
- “one half of the fuel costs incurred by the assessment unit in respect of any period during the first 6 months of their use of the heating system.”.
- (15) In paragraph (1) of regulation 28 (costs where benefit not paid or not claimed) after the words “a claimant” there shall be inserted the words “or his partner” and after the word “he” wherever it appears there shall also be inserted the words “or his partner”.

Amendment of the Trade Disputes Regulations

8.—(1) The Trade Disputes Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 3(3)(a) (urgent cases), for the words “capital of £2,000 or less” there shall be substituted the words “capital below the limit currently disregarded”.

(3) In regulation 22(5)(a) (duties and liabilities of employers), after the words “which is not deducted shall” there shall be inserted the words “, without prejudice to any other method of recovery from the claimant or otherwise,”.

Amendment of the Urgent Cases Regulations

9.—(1) The Urgent Cases Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 6(1)(f) (circumstances in which and items for which sums shall not be paid), before the words “in respect of any need” there shall be inserted the words “except in circumstances to which paragraph 2 of Schedule 1 or paragraph 1 of Schedule 2 applies”.

(3) In regulation 16 (claimants failing to comply with availability for employment requirements), after sub-paragraph (a) of paragraph (1) there shall be inserted the following sub-paragraph:—

“(aa) because he is subject to the condition that he is registered for employment pursuant to section 5 and has failed to comply with that condition; or”;

and, in sub-paragraph (a) of paragraph (2), after the words “(1)(a)” there shall be inserted the words “or (1)(aa)” and after the words “unavailable for work” there shall be inserted the words “or fails to register for employment (if required to do so)”.

(4) In paragraph 2 of Schedule 1 and paragraph 1 of Schedule 2, for the words “Great Britain” wherever they occur there shall be substituted the words “the United Kingdom”.

(5) In Schedule 2 the following paragraph shall be inserted after paragraph 2:—

“Bedclothes

2A. In the case of a claimant who—

- (a) is not entitled to a pension or an allowance pursuant to the Act by virtue of section 6(1); and
- (b) has recently moved, or is about to move, from a re-settlement unit into unfurnished or partly furnished accommodation as an owner or tenant,

any item of bedclothes specified in column 1 of Schedule 1 to the Single Payments Regulations in the circumstances described in paragraph (1) of regulation 12 of those regulations.

2A. The amount applicable by virtue of column 2 of Schedule 1 to the Single Payments Regulations.”.

Signed by authority of the Secretary of State for Social Services.

13th July 1983.

Tony Newton,
Parliamentary Under-Secretary of State,
Department of Health and Social Security.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend regulations made under the Supplementary Benefits Act 1976 ("The Act") as amended by the Social Security Act 1980. Regulation 1 is formal, dealing only with citation, commencement date and interpretation of the regulations.

Regulations 2 and 3 make minor technical amendments only to the Supplementary Benefit (Aggregation) Regulations 1981 and the Supplementary Benefit (Claims and Payments) Regulations 1981:—

—in the Aggregation Regulations, regulation 2 is amended as a consequence of the amendment made by regulation 4(2) of these regulations to the Supplementary Benefit (Conditions of Entitlement) Regulations 1981 while in regulation 4 a reference to the Scottish legislation is inserted equivalent to the English provision already mentioned therein;

—in the Claims and Payments Regulations, regulation 3(1) is amended so as to make it clear that paragraph (1) is subject to the provisions contained in the remainder of the regulation.

Regulation 4 makes several changes to the Supplementary Benefit (Conditions of Entitlement) Regulation 1981:—

—it amends regulation 3 so as to enable claimants to spend up to 4 weeks in Northern Ireland so long as they were entitled to benefit immediately before leaving and remain so entitled during their absence in every way other than presence in Great Britain;

—an additional category of claimants is added to the list set out in regulation 6 of those not required to be available for work—namely, a claimant who is caring for a member of the assessment unit who is sick where there are no alternative means of caring for the person;

—regulation 7 is amended so as to allow young people to count periods spent on certain forms of training (Youth Training Scheme and Youth Opportunities Programme Schemes) as part of the qualifying period for the "21 hour" rule which permits certain people to be treated as available for employment while attending part-time courses of education;

—a new sub-paragraph is substituted for regulation 8(1)(g) in order to bring it into line with the newly amended provision in the Social Security (Claims and Payments) Regulations 1979 and a consequential amendment is also made to regulation 8(2)(e);

—a new sub-paragraph is added to regulation 9(3) to provide that where bonus or commission in respect of the same period as other earnings is paid on a different day from those other earnings, it is to be treated as earnings for the same period.

Regulation 5 amends the Supplementary Benefit (Determination of Questions) Regulations 1980:—

—regulation 5 is amended so as to allow the supplementary benefit adjudicating authorities when determining a claim for a pension or an allowance to treat as binding a decision by the national insurance adjudicating authorities given on a claim for a national insurance benefit;

—regulation 7A is amended to allow the Secretary of State to recover

overpayments resulting from interim payments without proof of misrepresentation or failure to disclose provided that the claimant was informed of this right before the interim payments were made;

—regulation 8 is amended to add a power so as to enable the Secretary of State to suspend payment of arrears of benefit to a claimant in certain circumstances.

Regulation 6 amends the Supplementary Benefit (Duplication and Overpayment) Regulations 1980 to make it possible to deduct overpayments of benefit under section 20(4) of the Act from payment of arrears of supplementary benefit without limitation.

Regulation 7 amends the Supplementary Benefit (Single Payments) Regulations 1981. Apart from minor amendments intended to correct and clarify drafting, numerous amendments are made to reflect the spirit of the implementation of equal treatment between men and women in the supplementary benefit scheme. Regulation 26 is also amended so that a single payment may now be made where members of an assessment unit are unfamiliar with the cost of running their heating system at any time during the first six months of their use of it in respect of the fuel costs actually incurred by them. In addition, single payments may now be made—

- in respect of certain items where the need arises not just in Great Britain but also elsewhere in the United Kingdom;
- for the purchase of safety gates;
- to pay for an estimate of the cost of certain household items when requested by the Secretary of State if that is the only way of obtaining one;
- to meet the cost of removing a carpet from the claimant's old home and re-installing it in his new one as part of his overall removal expenses.

Regulation 8 makes two minor amendments to the Supplementary Benefit (Trade Disputes and Recovery from Earnings) Regulations 1980 to correct and clarify the drafting. The Supplementary Benefit (Urgent Cases) Regulations 1981 are amended to reflect the amendment to the Supplementary Benefit (Conditions of Entitlement) Regulations 1981 made by regulation 6(3) of the Supplementary Benefit (Miscellaneous Amendments) Regulations 1982 whereby only certain groups of claimants are required to register for work. Also, in the list of cases in which an urgent payment may be made set out in Schedule 2 a further item (bedclothes for certain persons) is added.

The Report of the Social Security Advisory Committee dated 20 June 1983 on the draft of these Regulations together with a statement showing that the Regulations give effect to the Committee's recommendations is contained in Command Paper No. 8978 published by Her Majesty's Stationery Office.

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