

1983 No. 191

SOCIAL SECURITY

**The Supplementary Benefit (Miscellaneous Amendments) Regulations
(Northern Ireland) 1983***Made* 19th July 1983*Coming into operation* 15th August 1983

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(2A), 3(1B), 4(1A), 5, 6(1), 7, 9(1), 13(2), 19(1), (2) and (2A) and 25(4) of the Supplementary Benefits (Northern Ireland) Order 1977(a) and of all other powers enabling it in that behalf, hereby makes the following regulations which correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and which accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980(b) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

Citation, commencement and interpretation

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

(2) In these regulations—

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

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

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

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

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

“Single Payments Regulations” means the Supplementary Benefit (Single Payments) Regulations (Northern Ireland) 1981(h);

(a) S.I. 1977/2156 (N.I. 27): as amended by Article 7 of, and Part I of Schedule 2 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)) (and set out in Part II of that Schedule), Article 5 of the Social Security (Northern Ireland) Order 1981 (S.I. 1981/1118 (N.I. 25)) and Articles 31 and 38 of, and paragraph 14 of Schedule 4 to, the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16))

(b) 1980 c. 30

(c) S.R. 1981 No. 373

(d) S.R. 1981 No. 368; the relevant amending regulations are S.R. 1982 No. 240

(e) S.R. 1981 No. 371; the relevant amending regulations are S.R. 1982 Nos. 240 and 295

(f) S.R. 1980 No. 423; the relevant amending regulations are S.R. 1981 No. 215 and S.R. 1982 Nos. 240 and 295

(g) S.R. 1980 No. 396; the relevant amending regulations are S.R. 1981 No. 215

(h) S.R. 1981 No. 369; the relevant amending regulations are S.R. 1982 No. 240

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

“Urgent Cases Regulations” means the Supplementary Benefit (Urgent Cases) Regulations (Northern Ireland) 1981(b).

Amendment of the Aggregation Regulations

2. In regulation 2(3)(c) of the Aggregation Regulations (circumstances in which married couples are to be treated as being, or not being, members of the same household), for head (i) there shall be substituted the following head—

“(i) he is a claimant to whom regulation 3(1) or (3) of the Conditions of Entitlement Regulations (persons temporarily absent from Northern Ireland whose entitlement is to continue) applies, or”.

Amendment of the Claims and Payments Regulations

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

Amendment of the Conditions of Entitlement Regulations

4.—(1) This regulation shall amend the Conditions of Entitlement Regulations.

(2) In regulation 3 (persons temporarily absent from Northern Ireland whose entitlement is to continue)—

(a) in paragraph (1)—

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

(ii) after “Northern Ireland” where it first appears, there shall be inserted “other than in Great Britain”;

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

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

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

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

(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 Northern Ireland,

shall be entitled to a pension or allowance during his absence from Northern Ireland, so long as he remains in Great Britain, 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 registration and availability for employment), after paragraph (h) there shall be inserted the following paragraph—

“(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;”.

(a) S.R. 1980 No. 417; the relevant amending regulations are S.R. 1982 No. 240

(b) S.R. 1981 No. 372; the relevant amending regulations are S.R. 1982 No. 240

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

(a) in paragraph (3)(a), after “falling” there shall be inserted “after the terminal date and” and after “qualifying benefit” there shall be inserted “or on a course of training or instruction organised by or on behalf of the Department of Economic Development as part of the Youth Training Programme”;

(b) in paragraph (3)(b)—

(i) after “falling” there shall be inserted “after the terminal date and”,

(ii) in head (i) after “qualifying benefit” there shall be inserted “or on a course of training or instruction organised by or on behalf of the Department of Economic Development as part of the Youth Training Programme”,

(iii) for head (ii) there shall be substituted the following head—

“(ii) after the first period referred to in head (i), 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), after sub-paragraph (b) there shall be inserted the following sub-paragraph—

“(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 under the Act on the ground that he failed to claim in the manner prescribed by regulation 4 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(a) by virtue of the fact that the form approved by the Department 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 “fails to furnish the information” there shall be substituted “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), after sub-paragraph (a) there shall be inserted the following sub-paragraph—

“(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) This regulation shall amend the Determination of Questions Regulations.

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

(a) in paragraph (2), for the words from “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 Act; or

(d) if the benefit officer or, as the case may be, the Appeal 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 Act or the Child Benefit (Northern Ireland) Order 1975(a), be determined by the benefit officer or the Appeal Tribunal itself in accordance with the provisions of this regulation.”;

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

“(2A) Where the benefit officer or the Appeal 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 Act or the Child Benefit (Northern Ireland) Order 1975, that question shall be determined in accordance with that decision which shall be conclusive for the purposes of the provisions of the Order and regulations made under it.”;

(c) after paragraph (4) there shall be inserted the following paragraph—

“(4A) Where the benefit officer or, as the case may be, the Appeal 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 Appeal 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 Act or Part II of the Child Benefit (Northern Ireland) Order 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 Order under arrangements made by the Department with the consent of the Department of Finance and Personnel 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 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 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 payment), the existing regulation shall be numbered paragraph (1) and the following paragraph added at the end—

"(2) Where it appears to the Department that a question has arisen whether any amount paid or payable to a person by way of supplementary benefit is recoverable by the Department under Article 25 by deduction from prescribed benefits or otherwise, it may direct that any payment of arrears of supplementary benefit to that person shall be suspended, in whole or in part, pending determination of that question under Article 25 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 "Regulation 6 shall apply to supplementary pension or allowance" there shall be substituted "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 (Northern Ireland) 1980 but shall apply to the amount of supplementary pension or allowance to which a person is presently entitled".

Amendment of the Single Payments Regulations

7.—(1) This regulation shall amend the Single Payments Regulations.

(2) In regulation 3(2)(b) (meaning of single payment and determination of amount payable)—

(a) "either" shall be omitted;

(b) in head (i) for "or" there shall be substituted "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 circumstances in question and those circumstances have not changed;" there shall be substituted "the item in question and the circumstances surrounding that payment have not changed;".

(4) In regulation 6(1)(d), 8(1)(c) and (2)(g), 13(1) and 22(1), for "Northern Ireland" wherever it occurs there shall be substituted "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 claimant” there shall be substituted “the assessment unit”;

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

“(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 Department 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 “re-installing on removal” there shall be inserted “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 claimant” there shall be inserted “, or his partner,”;

(ii) for “remain” in both places where it appears there shall be substituted “be”;

(iii) for “if he made a claim for it” there shall be substituted “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 “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 claimant” there shall be inserted “or his partner” and for “if he had made a claim for it;” there shall be substituted “if a claim for it had been made;”.

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

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

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

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

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

(a) in paragraph (1) after “the claimant” wherever it appears there shall be inserted “or his partner”;

(b) in paragraph (4) after “a claimant” there shall be inserted “or his partner”.

(10) In regulation 19(1) (re-decoration)—

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

(b) after “the claimant” where it appears in both sub-paragraphs (a) and (b) there shall be inserted “or his partner”.

(11) In regulation 22(1) (travelling expenses)—

- (a) in sub-paragraph (d) for "a claimant" there shall be substituted "a member of the assessment unit";
- (b) in sub-paragraphs (e), (f) and (g) for "the claimant" wherever it appears there shall be substituted "a member of the assessment unit".
- (12) In regulation 23(1)(a) (expenses on starting work), for "the claimant" there shall be substituted "a member of the assessment unit".
- (13) In regulation 25(3) (voluntary repatriation expenses), "Great Britain," shall be omitted.
- (14) In regulation 26 (fuel costs)—
- (a) in paragraph (1), for "in respect of a claimant's fuel costs" there shall be substituted "to meet the fuel costs of the assessment unit" and for "which he has put aside" there shall be substituted "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 from "one half of the aggregate" to the end there shall be substituted—
- "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 supplementary benefit not paid or not claimed) after "a claimant" there shall be inserted "or his partner" and after "he" wherever it appears there shall also be inserted "or his partner".

Amendment of the Trade Disputes Regulations

- 8.—(1) This regulation shall amend the Trade Disputes Regulations.
- (2) In regulation 3(3)(a) (urgent cases), for "capital of £2,000 or less" there shall be substituted "capital below the limit currently disregarded".
- (3) In regulation 21(5)(a) (duties and liabilities of employers), after "which is not deducted shall" there shall be inserted " , without prejudice to any other method of recovery from the claimant or otherwise,".

Amendment of the Urgent Cases Regulations

- 9.—(1) This regulation shall amend the Urgent Cases Regulations.
- (2) In regulation 6(1)(f) (circumstances in which and items for which sums shall not be paid), before "in respect of any need" there shall be inserted "except in circumstances to which paragraph 2 of Schedule 1 or paragraph 1 of Schedule 2 applies,".
- (3) In regulation 16 (claimants who fail to comply with conditions of Article 7 or 14)—
- (a) in paragraph (1), after sub-paragraph (a) there shall be inserted the following sub-paragraph—
- "(aa) because he is subject to the condition that he is registered for employment pursuant to Article 7 and has failed to comply with that condition; or";
- (b) in paragraph (2)(a), after "(1)(a)" there shall be inserted "or (1)(aa)" and after "unavailable for work" there shall be inserted "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 "Northern Ireland" wherever it occurs there shall be substituted "the United Kingdom".

No. 191

Social Security

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Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 19th July 1983.

(L.S.)

C. Davie

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend regulations made under the Supplementary Benefits (Northern Ireland) Order 1977 ("the Order") as amended by the Social Security (Northern Ireland) Order 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 (Northern Ireland) 1981 and the Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 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 (Northern Ireland) 1981;
- 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) Regulations (Northern Ireland) 1981:—

- it amends regulation 3 so as to enable claimants to spend up to 4 weeks in Great Britain so long as they were entitled to supplementary benefit immediately before leaving and remain so entitled during their absence in every way other than presence in Northern Ireland;
- 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 the Youth Training Programme 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 (Northern Ireland) 1977 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 (Northern Ireland) 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 or for child benefit;
- regulation 7A is amended to allow the Department 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 Department to suspend payment of arrears of supplementary benefit to a claimant in certain circumstances.

Regulation 6 amends the Supplementary Benefit (Duplication and Overpayment) Regulations (Northern Ireland) 1980 to make it possible to deduct overpayments of benefit under Article 25(4) of the Order from payment of arrears of supplementary benefit without limitation.

Regulation 7 amends the Supplementary Benefit (Single Payments) Regulations (Northern Ireland) 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 Northern Ireland 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 Department if that is the only way of obtaining one;
- to meet the cost of removing a carpet from the claimant's old home and reinstalling 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 (Northern Ireland) 1980 to correct and clarify the drafting.

Regulation 9 amends the Supplementary Benefit (Urgent Cases) Regulations (Northern Ireland) 1981 to reflect the amendment to the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1981 made by regulation 3(3) of the Supplementary Benefit (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1982 whereby only certain groups of claimants are required to register for work.