

1987 No. 122

**SOCIAL SECURITY**

**The Social Security (Payments on account, Over-  
payments and Recovery) Regulations  
(Northern Ireland) 1987**

*Made* . . . . . 19th March 1987

*Coming into operation* . . . . . 6th April 1987

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The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by Articles 28, 52(1)(s) and (t), 54 and 84 of the Social Security (Northern Ireland) Order 1986(a) and, as regards the revocations and consequential amendments in the Schedule, the powers specified in the Schedule, and of all other powers enabling it in that behalf, hereby makes the following regulations:

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(a) S.I. 1986/1888 (N.I. 18); Article 28 has effect in relation to supplementary benefit by virtue of paragraph 2 of Schedule 7; Articles 52 and 54 have effect, by virtue of paragraphs 1, 3 and 5 of Schedule 7, in relation to supplementary benefit and other benefits under earlier enactments as well as the benefits specified in Articles 52(2) and 54(10). Article 81(1) provides for section 155(1) to (3A) of the Social Security (Northern Ireland) Act 1975 (c. 15) (extent of powers) to apply to the enabling provisions under which these regulations are made; section 155(3A) of that Act was inserted by Article 63(1)

## PART I

## GENERAL

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1987 and shall come into operation on 6th April 1987.

(2) In these regulations—

“the Act” means the Social Security (Northern Ireland) Act 1975(a);

“the Order” means the Social Security (Northern Ireland) Order 1986;

“adjudicating authority” means, as the case may be, the Chief or any other adjudication officer, a social security appeal tribunal, the Chief or any other Social Security Commissioner or a Tribunal of Commissioners;

“benefit” means any benefit under the Act(b), child benefit, family income supplement, supplementary benefit and any social fund payment under Article 33(2)(a) of the Order (maternity and funeral expenses);

“child benefit” means benefit under Part II of the Child Benefit (Northern Ireland) Order 1975(c);

“the Claims and Payments Regulations” means the Child Benefit (Claims and Payments) Regulations (Northern Ireland) 1985(d), the Family Income Supplements (Claims and Payments) Regulations (Northern Ireland) 1980(e), regulations 5 to 9 of the Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975(f), the Social Security (Mobility Allowance) (Motability Payment Arrangements) Regulations (Northern Ireland) 1978(g), the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(h), the Social Fund Maternity and Funeral Expenses (Claims and Payments) Regulations (Northern Ireland) 1987(i) and the Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 1981(j);

(a) 1975 c. 15

(b) Amendments altering the range of benefits available under this Act were made by Articles 2(3), 17, 18 and 24 of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)), Article 32 of the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16)), Articles 5 to 7 of, and Schedule 3 to, the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)) and Articles 37 to 43 of, and Schedule 3 and paragraph 13 of Schedule 4 to, the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

(c) S.I. 1975/1504 (N.I. 16)

(d) S.R. 1985 No. 124

(e) S.R. 1980 No. 376; the relevant amending regulations are S.R. 1983 No. 216 and S.R. 1984 No. 174

(f) S.R. 1975 No. 280; the relevant amending regulations are S.R. 1981 No. 407, S.R. 1982 No. 284, S.R. 1983 No. 233, S.R. 1984 No. 174 and S.R. 1986 No. 341

(g) S.R. 1978 No. 222, as amended by S.R. 1982 No. 381

(h) S.R. 1977 No. 351; the relevant amending regulations are S.R. 1978 No. 90, S.R. 1979 No. 259, S.R. 1980 Nos. 267, 385 and 452, S.R. 1981 No. 281, S.R. 1982 Nos. 153, 284, 302 and 318, S.R. 1983 Nos. 36 and 203, S.R. 1984 Nos. 123, 174, 317 and 382, S.R. 1985 Nos. 92 and 226 and S.R. 1986 Nos. 157 and 326

(i) S.R. 1987 No. 100

(j) S.R. 1981 No. 368; the relevant amending regulations are S.R. 1982 Nos. 140, 240, 295 and 324, S.R. 1983 Nos. 191, 290 and 322, S.R. 1984 Nos. 174 and 266, S.R. 1985 No. 176 and S.R. 1986 No. 365

“family income supplement” means benefit under the Family Income Supplements Act (Northern Ireland) 1971(a);

“guardian’s allowance” means an allowance under section 38 of the Act(b);

“severe disablement allowance” means an allowance under section 36 of the Act(c);

“supplementary allowance” means an allowance under Article 3(1)(b) of the Supplementary Benefits (Northern Ireland) Order 1977(d);

“supplementary benefit” means benefit under Part I of the Supplementary Benefits (Northern Ireland) Order 1977;

“supplementary pension” means a pension under Article 3(1)(a) of the Supplementary Benefits (Northern Ireland) Order 1977.

(3) The Interpretation Act (Northern Ireland) 1954(e) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

## PART II

### INTERIM PAYMENTS

#### *Making of interim payments*

2.—(1) The Department may, in its discretion, make an interim payment, that is to say a payment on account of any benefit to which it appears to it that a person is or may be entitled, in the following circumstances—

- (a) a claim for that benefit has not been made in accordance with the Claims and Payments Regulations and it is impracticable for such a claim to be made immediately;
- (b) a claim for that benefit has been so made, but it is impracticable for it or a reference, review, application or appeal which relates to it to be determined immediately; or
- (c) an award of that benefit has been made but it is impracticable for the beneficiary to be paid immediately, except by means of an interim payment.

(2) On or before the making of an interim payment the recipient shall be given notice in writing of his liability under this Part to have it brought into account and to repay any overpayment.

#### *Bringing interim payments into account*

3. Where it is practicable to do so and notice has been given as required by regulation 2(2), the interim payment shall be brought into account as follows—

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- (a) 1971 c. 8 (N.I.); sections 6(1) and 8(3) were amended by Article 3 of, and Part III of Schedule 1 to, the Social Security Adjudications (Northern Ireland) Order 1983 (S.I. 1983/1524 (N.I. 17))
  - (b) Section 38 was amended by paragraph 13 of Schedule 4 to the Child Benefit (Northern Ireland) Order 1975 (S.I. 1975/1504 (N.I. 16)) and Article 46 of the Social Security (Northern Ireland) Order 1986
  - (c) Section 36 was amended by Article 5(1) of the Health and Social Security (Northern Ireland) Order 1984 and paragraph 2 of Schedule 4 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16))
  - (d) S.I. 1977/2156 (N.I. 27); provisions of the Supplementary Benefits (Northern Ireland) Order 1977, 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)), are set out in Part II of that Schedule
  - (e) 1954 c. 33 (N.I.)

- (a) any interim payment made in anticipation of an award of benefit shall be offset by the adjudicating authority in reduction of the benefit to be awarded; and
- (b) any interim payment (whether or not made in anticipation of an award) which is not offset under paragraph (a) shall be deducted by the Department from—
  - (i) the sum payable under the award of benefit on account of which the interim payment was made; or
  - (ii) any sum payable under any subsequent award of the same benefit to the same person.

#### *Recovery of overpaid interim payments*

4.—(1) Where the adjudicating authority has determined that an interim payment has been overpaid in circumstances which fall within paragraph (3) and that notice has been given as required by regulation 2(2), that authority shall determine the amount of the overpayment.

(2) The amount of the overpayment shall be recoverable by the Department by the same procedures and subject to the same conditions as if it were recoverable under Article 54(1) of the Order.

(3) The circumstances in which an interim payment may be determined to have been overpaid are as follows—

- (a) an interim payment has been made under regulation 2(1)(a) or (b) but—
  - (i) the recipient has failed to make a claim in accordance with the Claims and Payments Regulations as soon as practicable, or having made such a claim has withdrawn it or is deemed to have withdrawn it; or
  - (ii) it has been determined that there is no entitlement on the claim, or that the entitlement is less than the amount of the interim payment; or
- (b) an interim payment has been made under regulation 2(1)(c) which exceeds the entitlement under the award of benefit on account of which the interim payment was made.

### PART III

#### OFFSETTING

##### *Offsetting prior payment against subsequent award*

5.—(1) Subject to regulation 6 (exception from offset of recoverable overpayment), any sum paid in respect of a period covered by a subsequent determination in any of the cases set out in paragraph (2) shall be offset against arrears of entitlement under the subsequent determination and, except to the extent that the sum exceeds the arrears, shall be treated as properly paid on account of them.

- (2) Paragraph (1) applies in the following cases—

*Case 1: Payment under an award which is revised, reversed or varied*

Where a person has been paid a sum by way of benefit under an award which is subsequently varied on appeal or revised on a review.

*Case 2: Award or payment of benefit in lieu*

Where a person has been paid a sum by way of benefit under the original award and it is subsequently determined, on review or appeal, that another benefit should be awarded or is payable in lieu of the first.

*Case 3: Child benefit and severe disablement allowance*

Where either—

- (a) a person has been awarded and paid child benefit for a period in respect of which severe disablement allowance is subsequently determined to be payable to the child concerned; or
- (b) severe disablement allowance is awarded and paid for a period in respect of which child benefit is subsequently awarded to someone else, the child concerned in the subsequent determination being the beneficiary of the original award.

*Case 4: Increase of benefit for dependant*

Where a person has been paid a sum by way of an increase in respect of a dependent person under the original award and it is subsequently determined that that other person is entitled to benefit for that period, or that a third person is entitled to the increase for that period in priority to the beneficiary of the original award.

(3) Where an amount has been deducted under regulation 14(b) (sums to be deducted in calculating recoverable amounts) an equivalent sum shall be offset against any arrears of entitlement of that person under a subsequent award of supplementary pension or allowance for the period to which the deducted amount relates.

(4) Where child benefit which has been paid under an award in favour of a person (the original beneficiary) is subsequently awarded to someone else for any week, the benefit shall nevertheless be treated as properly paid if it was received by someone other than the original beneficiary, who—

- (a) either had the child living with him or was contributing towards the cost of providing for the child at a weekly rate which was not less than the weekly rate under the original award, and
- (b) could have been entitled to child benefit in respect of that child for that week had a claim been made in time.

(5) Any amount which is treated under paragraph (4) as properly paid shall be deducted from the amount payable to the beneficiary under the subsequent award.

*Exception from offset of recoverable overpayment*

6. No amount may be offset under regulation 5(1) which has been determined to be a recoverable overpayment for the purposes of Article 54(1) of the Order.

## PART IV

## PREVENTION OF DUPLICATION OF PAYMENTS

*Duplication of payments and supplementary benefit*

7. References in this Part to Article 28 of the Order (prevention of duplication of payments) are to the provisions of that Article as applied to supplementary benefit by Article 74 of, and paragraph 2 of Schedule 7 to, the Order.

*Duplication and prescribed income*

8.—(1) For the purposes of Article 28(1) of the Order (recovery of amount of benefit awarded because prescribed income not paid on prescribed date), a person's prescribed income consists of resources which are required by Part III of the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984(a) to be taken into account in the calculation of his income resources.

(2) The prescribed date in relation to any payment of income prescribed by paragraph (1) is—

- (a) where it is made in respect of a specific day or period, that day or the first day of the period;
- (b) where it is not so made, the day or the first day of the period to which it is fairly attributable.

*Duplication and prescribed payments*

9.—(1) For the purposes of Article 28(2) of the Order (recovery of amount of benefit awarded because prescribed payment not made on prescribed date), the payment of any of the following is a prescribed payment—

- (a) any benefit under the Act other than any grant or gratuity;
- (b) any child benefit;
- (c) any family income supplement;
- (d) any war disablement pension or war widow's pension(b) which is not in the form of a gratuity and any payment which the Department accepts as analogous to any such pension;
- (e) any allowance paid under the Job Release Act 1977(c);
- (f) any allowance payable by or on behalf of the Department of Economic Development to or in respect of a person for his maintenance for any period during which he is following a course of training or instruction provided or approved by that Department;
- (g) any payment of benefit under the legislation of any member State other than the United Kingdom concerning the branches of social security mentioned in Article 4(1) of Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons, to

(a) S.R. 1984 No. 54; the relevant amending regulations are S.R. 1984 Nos. 174, 278 and 375, S.R. 1985 Nos. 84, 206 and 336, and S.R. 1986 Nos. 236 and 240

(b) "War disablement pension" and "war widow's pension" are each defined in Article 2(2) of the Social Security (Northern Ireland) Order 1986

(c) 1977 c. 8

self-employed persons and to members of their families moving within the Community(a), whether or not the benefit has been acquired by virtue of the provisions of that Regulation.

(2) The prescribed date, in relation to any payment prescribed by paragraph (1) is the date by which receipt of or entitlement to that benefit would have to be notified to the Department if it were to be taken into account in determining, whether on review or otherwise, the amount of or entitlement to supplementary pension or allowance.

#### *Duplication and maintenance payments*

**10.** For the purposes of Article 28(3) of the Order (recovery of amount of benefit awarded because maintenance payments not made), the following benefits are prescribed—

- (a) child benefit;
- (b) increases for dependants of any benefit under the Act;
- (c) child's special allowance under section 31 of the Act(b); and
- (d) guardian's allowance.

#### *Conversion of payments made in a foreign currency*

**11.** Where a payment of income prescribed by regulation 8(1), or a payment prescribed by regulation 9(1), is made in a currency other than sterling, its value in sterling, for the purposes of Article 28 of the Order and this Part, shall be determined, after conversion by the Bank of England, or by any bank which is a recognised bank for the purposes of the Banking Act 1979(c), as the net sterling sum into which it is converted, after any banking charge or commission on the transaction has been deducted.

## PART V

### DIRECT CREDIT TRANSFER OVERPAYMENTS

#### *Recovery of overpayments by direct credit transfer*

**12.—**(1) Where it is determined by the adjudicating authority that a payment in excess of entitlement has been credited to a bank or other account under an arrangement for direct credit transfer made in accordance with regulation 16A of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(d), or regulation 7 of the Child Benefit (Claims and Payments) Regulations (Northern Ireland) 1985(d) and that the conditions prescribed by paragraph (2) are satisfied, the excess, or the specified part of it to which the Department's certificate relates, shall be recoverable under this regulation.

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- (a) O.J. No. L149, 5.7.1971; Regulations No. 1408/71 and No. 574/72 were restated in amended form in Regulation No. 2001/83 (O.J. No. L230, 22.8.1983) and further amended by Council Regulation (EEC) No. 1660/85 (O.J. No. L160, 20.6.1985), Council Regulation (EEC) No. 1661/85 (O.J. No. L160, 20.6.1985) and Commission Regulation (EEC) No. 513/86 (O.J. No. L51, 28.2.1986)
  - (b) Section 31 was amended by paragraph 11 of Schedule 4 to the Child Benefit (Northern Ireland) Order 1975 and Article 18(2) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11)). Child's special allowance is abolished except for existing beneficiaries by Article 41 of the Social Security (Northern Ireland) Order 1986 from 6th April 1987
  - (c) 1979 c. 37
  - (d) These provisions are revoked in part by Part I of the Schedule to these regulations



(2) The prescribed conditions for recoverability under paragraph (1) are as follows—

- (a) the Department has certified that the payment in excess of entitlement, or a specified part of it, is materially due to the arrangement for payments to be made by direct credit transfer; and
- (b) notice of the effect which this regulation would have, in the event of an overpayment, was given in writing to the beneficiary, or to a person acting for him, before he agreed to the arrangement.

(3) Where the arrangement was agreed to before these regulations came into operation the condition prescribed by paragraph (2)(b) need not be satisfied in any case where the application for benefit to be paid by direct credit transfer contained a statement, or was accompanied by a written statement made by the applicant, which complied with the provisions of regulation 16A(3)(b) and (8) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(a) or, as the case may be, regulation 7(2)(b) and (6) of the Child Benefit (Claims and Payments) Regulations (Northern Ireland) 1985(a).

## PART VI

### REVISION OF DETERMINATION AND CALCULATION OF AMOUNT RECOVERABLE

#### *Circumstances in which determination need not be revised*

**13.** Article 54(4) of the Order (recoverability dependent on reversal, variation or revision of determination) shall not apply where the fact and circumstances of the misrepresentation or non-disclosure do not provide a basis for reviewing and revising the determination under which payment was made.

#### *Sums to be deducted in calculating recoverable amounts*

**14.** In calculating the amounts recoverable under Article 54(1) of the Order or regulation 12, where there has been an overpayment of benefit, the adjudicating authority shall deduct—

- (a) any amount which has been offset under Part III;
- (b) any additional amount of supplementary pension or allowance which was not payable under the original, or any other, determination, but which should have been determined to be payable—
  - (i) on the basis of the claim as presented to the adjudicating authority, or
  - (ii) on the basis of the claim as it would have appeared had the misrepresentation or non-disclosure been remedied before the determination;

but no other deduction shall be made in respect of any other entitlement to benefit which may be, or might have been, determined to exist.

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(a) These provisions are revoked in part by Part I of the Schedule to these regulations

*Quarterly diminution of capital resources*

**15.**—(1) For the purposes of Article 54(1) of the Order, where a supplementary pension or allowance has been overpaid in consequence of a misrepresentation as to capital resources or a failure to disclose their existence, the adjudicating authority shall treat those resources as having been reduced at the end of each quarter from the start of the overpayment period by the amount paid by way of supplementary pension or allowance within that quarter.

(2) Capital resources shall not be treated as reduced over any period other than a quarter or in any circumstances other than those for which paragraph (1) provides.

(3) In this regulation “a quarter” means a period of 13 weeks starting with the first day on which the overpayment period began and ending on the 90th consecutive day thereafter.

## PART VII

## THE PROCESS OF RECOVERY

*Recovery by deduction from prescribed benefits*

**16.**—(1) Where any amount is recoverable under Article 28 or 54(1) of the Order, or under these regulations, it shall be recoverable by the Department from any of the benefits prescribed in paragraph (2), to which the person from whom it is determined to be recoverable is entitled.

(2) The following benefits are prescribed for the purposes of this regulation—

- (a) subject to paragraphs (3) and (4), any benefit under the Act;
- (b) subject to paragraphs (3) and (4), any child benefit;
- (c) any family income supplement;
- (d) any benefit payable under the legislation of any member State other than the United Kingdom concerning the branches of social security mentioned in Article 4(1) of Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, whether or not the benefit has been acquired by virtue of the provisions of that Regulation;
- (e) subject to regulation 17, any supplementary pension or allowance;
- (f) any benefit payable under the social security legislation applicable in Great Britain which is equivalent to benefit prescribed by paragraphs (a), (b), (c) or (e) subject to exceptions equivalent to those made by paragraphs (3) and (4).

(3) Deductions may not be made from entitlement to the benefits specified in paragraph (4) except as a means of recovering an overpayment of the benefit from which the deduction is to be made.

(4) The benefits specified for the purposes of paragraph (3) are guardian's allowance, attendance allowance in respect of a child arising under section

35(1) to (4) of the Act(a), as modified by regulation 6 of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1975(b), and child benefit.

*Limitations on deductions from supplementary pension or allowance*

17.—(1) Regulation 16 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(c) (suspension of payments), but shall apply to the amount of pension or allowance to which a person is presently entitled only to the extent that there may, subject to regulation 18 of the Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 1981 (priority as between certain debts), be recovered in respect of any one benefit week—

- (a) in a case to which paragraph (2) applies, not more than the amount there specified; and
- (b) in any other case, three times 5 per cent. of the single householder rate, that 5 per cent. being, where it is not a multiple of 5 pence, rounded to the next higher such multiple.

(2) Where—

- (a) the person to whom the supplementary pension or allowance is payable is a person to whom—
  - (i) paragraph 1(a) of the table in paragraph 2(3) of Schedule 1 to the Supplementary Benefits (Northern Ireland) Order 1977 (normal requirements for person over pensionable age who has a partner) applies,
  - (ii) paragraph 3(a) of that table (normal requirements for householders over pensionable age) applies,
  - (iii) regulation 7 of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983(d) (long-term rates for normal requirements) applies; or
  - (iv) regulation 9(9)(a)(i) or (b)(i) of those regulations(d) (long-term rates for normal requirements of boarders) applies; or
- (b) the person responsible for the misrepresentation of or failure to disclose a material fact has, by reason thereof, been found guilty of an offence under Article 56 of the Order or under any other enactment, or has made a written statement after caution in admission of deception or fraud for the purpose of obtaining supplementary benefit,

the amount mentioned in paragraph (1)(a) shall be one-sixth of the weekly amount for normal requirements for the time being applicable to a person to whom paragraph 3 of the table in paragraph 2(3) of Schedule 1 to the Supplementary Benefits (Northern Ireland) Order 1977 (long-term rate for

(a) Section 35(1) to (4) was amended by Article 3 of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5))

(b) S.R. 1975 No. 102; the relevant amending regulations are S.R. 1977 No. 250

(c) S.R. 1980 No. 423; the relevant amending regulations are S.R. 1983 No. 191 and S.R. 1984 No. 174

(d) S.R. 1983 No. 61; the relevant amending regulations are S.R. 1983 Nos. 115, 215, 291 and 446, S.R. 1985 No. 336 and S.R. 1987 No. 15

householders) applies, that one-sixth being, where it is not a multiple of 10 pence, rounded to the nearest such multiple or, if it is a multiple of 5 pence but not of 10 pence, the next higher multiple of 10 pence.

(3) Where in the calculation of the resources of the person to whom the supplementary pension or allowance is payable the amount of earnings or other income falling to be taken into account is reduced by regulation 10(5) or 11(5) of the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984(a) (partial disregard of earnings or other income respectively) the weekly amount applicable under paragraph (1) may be increased by not more than half the amount of the reduction, and any increase under this paragraph has priority over any increase which would, but for this paragraph, be made under regulation 17(3) of the Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 1981 (regular payments to third parties for fuel items).

(4) Regulation 16 shall not be applied to a supplementary pension or allowance so as to reduce that pension or allowance in any one benefit week—

(a) in a case in which the person to whom that pension or allowance is payable is also entitled to payment of any benefit under the Act together with which, under arrangements made by the Department either throughout or in any part of Northern Ireland, supplementary pension or allowance is paid, to less than 5 pence;

(b) in any other case, to less than 10 pence.

(5) In this regulation—

(a) “benefit week” has the same meaning as in regulation 7 of the Supplementary Benefit (Determination of Questions) Regulations (Northern Ireland) 1980(b);

(b) “written statement after caution” means a written statement made in accordance with the Judges’ Rules.

### *Recovery from couples*

18. In the case of an overpayment of supplementary benefit or family income supplement in respect of a married or unmarried couple, the amount recoverable by deduction, in accordance with regulation 16, may be recovered by deduction from supplementary benefit or family income supplement payable to either of them, provided that the two of them are a married or unmarried couple at the date of the deduction.

## PART VIII

### REVOCATIONS, CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS

#### *Revocations and consequential amendments*

19.—(1) The regulations specified in column (1) of Part I of the Schedule are revoked to the extent mentioned in column (2) of that Part.

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(a) S.R. 1984 No. 54; the relevant amending regulations are S.R. 1984 No. 278 and S.R. 1986 No. 236  
 (b) S.R. 1980 No. 423; the relevant amending regulations are S.R. 1981 No. 215, S.R. 1982 No. 295, S.R. 1983 No. 290 and S.R. 1984 No. 174

(2) The regulations specified in column (1) of Part II of the Schedule are each amended by substituting for the passage specified in column (2) of that Part the words ‘he, or any person acting for him, has whether fraudulently or otherwise misrepresented or failed to disclose any material fact and that the interim payment has been made in consequence of the misrepresentation or failure’.

(3) The regulations revoked by paragraph (1) and those amended by paragraph (2) shall nevertheless continue in operation in their existing form for the purposes of any review or appeal in relation to any question of repayment or recoverability first determined before the commencement of these regulations.

*Transitional provisions*

**20.**—(1) Parts II to VI shall apply to the determination of any questions first determined after the commencement of these regulations, but not to the determination on review or appeal of any question of repayment or recoverability first determined before that date.

(2) Article 54(7) and (9) of the Order (recovery by deductions from benefit and recovery through the county court) and Part VII (the process of recovery) shall apply to any amount recoverable or repayable under any enactment repealed by the Order or any regulations revoked by these regulations as if it was an amount recoverable under Article 54(1) of the Order.

(3) Article 54(9) of the Order shall apply to any amount which was, or would have been, recoverable through the county court under enactments repealed by the Order as if it was an amount recoverable under Article 54(1) of the Order.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 19th March 1987.

(L.S.)

*A. N. Burns*

Assistant Secretary

## SCHEDULE

Regulation 19

## PART I

## REVOCATIONS AND PROVISIONS CONFERRING POWERS

Column (1) <i>Statutory Rule</i>	Column (2) <i>Extent of Revocation</i>	Column (3) <i>Provisions Conferring Power</i>
The Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975 (S.R. 1975 No. 280)	Regulation 22	Social Security (Northern Ireland) Act 1975, section 119(3) and 119(4)(a)
The Child Benefit (Residence and Persons Abroad) Regulations (Northern Ireland) 1976 (S.R. 1976 No. 227)	Regulation 8	Social Security (Northern Ireland) Act 1975, section 119(3); Child Benefit (Northern Ireland) Order 1975, Article 10(1)
The Social Security (Claims and Payments) Regulations (Northern Ireland) 1977 (S.R. 1977 No. 351)	In regulation 16A, in paragraph (3)(b) the words from "and in particular" to the end of the paragraph and paragraphs (8) and (9)	Social Security (Northern Ireland) Act 1975, section 81(a)
The Child Benefit (General) Regulations (Northern Ireland) 1979 (S.R. 1979 No. 5)	Regulation 17	Child Benefit (Northern Ireland) Order 1975, Article 19(5) and (6)(b)
The Family Income Supplements (General) Regulations (Northern Ireland) 1980 (S.R. 1980 No. 375)	Regulation 10	Family Income Supplements Act (Northern Ireland) 1971, section 8(3)(c)

- (a) 1975 c. 15; section 81 was extended by Article 5(3) of the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)) and amended by Schedule 5 to the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16)). Section 119(3) was amended by paragraph 8(a) of Schedule 3 to the Social Security (Northern Ireland) Order 1979. Section 119(4) was amended by paragraph 34 of Schedule 4 to the Child Benefit (Northern Ireland) Order 1975, paragraph 8(b) of Schedule 3 to the Social Security (Northern Ireland) Order 1979 and paragraph 12 of Schedule 1 to the Social Security (Northern Ireland) Order 1980
- (b) S.I. 1975/1504 (N.I. 16); Article 19(5) and (6) was amended by paragraph 10 of Schedule 2 to the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8))
- (c) 1971 c. 8 (N.I.); section 8(3) was amended by Article 3 of the Social Security Adjudications (Northern Ireland) Order 1983 (S.I. 1983/1524 (N.I. 17))

Column (1) <i>Statutory Rule</i>	Column (2) <i>Extent of Revocation</i>	Column (3) <i>Provisions Conferring Power</i>
The Supplementary Benefit (Duplication and Overpayment) Regulations (Northern Ireland) 1980 (S.R. 1980 No. 396)	Regulations 1 to 7	Supplementary Benefits (Northern Ireland) Order 1977, Articles 16(1), (1A) and (2) and 25(4)
The Supplementary Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 1981 (S.R. 1981 No. 215)	Regulation 6	Supplementary Benefits (Northern Ireland) Order 1977, Article 25(4)
The Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 1982 (S.R. 1982 No. 284)	Regulation 6(2)	Social Security (Northern Ireland) Act 1975, section 81
The Supplementary Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 1983 (S.R. 1983 No. 191)	Regulation 6	Supplementary Benefits (Northern Ireland) Order 1977, Article 25(4)
The Social Security (General Benefit) Regulations (Northern Ireland) 1984 (S.R. 1984 No. 92)	Regulations 5 to 7 and in regulation 9(1) the words from "and (subject also to the provisions of section 119" to the end	Social Security (Northern Ireland) Act 1975, sections 86(2) and (5)(a) and 119(3) and (4)
The Social Security (Adjudication) Regulations (Northern Ireland) 1984 (S.R. 1984 No. 144)	Regulations 76, 78 to 80, 83, 84 and 90	Child Benefit (Northern Ireland) Order 1975, Articles 9 and 24; Social Security (Northern Ireland) Act 1975, section 119(3) and (4)
The Social Security (Adjudication) (Consequential Amendments) Regulations (Northern Ireland) 1984 (S.R. 1984 No. 174)	Regulations 7 and 26(b)	Social Security (Northern Ireland) Act 1975, section 119(3); Child Benefit (Northern Ireland) Order 1975, Article 10(1)

(a) 1975 c. 15; section 86(2) was substituted by Article 8 of the Social Security (Northern Ireland) Order 1979 and section 86(5) was amended by paragraph 30 of Schedule 4 to the Child Benefit (Northern Ireland) Order 1975

Column (1) <i>Statutory Rule</i>	Column (2) <i>Extent of Revocation</i>	Column (3) <i>Provisions Conferring Power</i>
The Child Benefit (Claims and Payments) Regulations (Northern Ireland) 1985 (S.R. 1985 No. 124)	In regulation 7, in paragraph (2)(b) the words from "and in particular" to the end of the paragraph and paragraphs (6) and (7)	Child Benefit (Northern Ireland) Order 1975, Articles 8(5)(a) and 10(1)

## PART II

## CONSEQUENTIAL AMENDMENTS AND PROVISIONS CONFERRING POWERS

Column (1) <i>Statutory Rule</i>	Column (2) <i>Passage to be Amended</i>	Column (3) <i>Provisions Conferring Power</i>
The Family Income Supplements (General) Regulations (Northern Ireland) 1980 (S.R. 1980 No. 375)	In regulation 11A(3)(b) the words from "in the obtaining" to the end of the paragraph	Family Income Supplements Act (Northern Ireland) 1971, section 10(2)(ii)(c)
The Supplementary Benefit (Determination of Questions) Regulations (Northern Ireland) 1980 (S.R. 1980 No. 423)	In regulation 7A(3)(d) the words from "in the obtaining" to the end of the paragraph	Supplementary Benefits (Northern Ireland) Order 1977, Article 19(2)(dd)(e)
The Child Benefit (Interim Payments) Regulations (Northern Ireland) 1983 (S.R. 1983 No. 12)	In regulation 2(3) the words from "in the obtaining" to the end of the paragraph	Social Security (Northern Ireland) Act 1975, section 119(3); Child Benefit (Northern Ireland) Order 1975, Article 10(1)
The Social Security (General Benefit) Regulations (Northern Ireland) 1984 (S.R. 1984 No. 92)	In regulation 4(3) the words from "in the obtaining" to the end of the paragraph	Social Security (Northern Ireland) Act 1975, section 119(3)

- (a) S.I. 1975/1504 (N.I. 16); Article 8(5) was extended by Article 5(3) of the Social Security (Northern Ireland) Order 1980
- (b) Regulation 11A was inserted by regulation 2 of S.R. 1982 No. 400
- (c) 1971 c. 8 (N.I.); paragraph (ii) was inserted in section 10(2) by paragraph 2(2) of Schedule 4 to the Social Security (Northern Ireland) Order 1982
- (d) Regulation 7A was inserted by regulation 5(3) of S.R. 1983 No. 191
- (e) S.I. 1977/2156 (N.I. 27); Article 19 was amended by paragraph 13 of Schedule 2 to the Social Security (Northern Ireland) Order 1980 and paragraph (2)(dd) was inserted by paragraph 14(2) of Schedule 4 to the Social Security (Northern Ireland) Order 1982



## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations come into operation on 6th April 1987 and provide for—

the making and recovery of payments on account of social security entitlement (regulations 2 to 4),  
offsetting prior payment against subsequent award (regulations 5 and 6),  
the prevention of duplication of payments (regulations 7 to 11),  
direct credit transfer overpayments (regulation 12),  
the revision of determinations and calculation of amounts recoverable (regulations 13 to 15) and  
the process of recovering amounts determined to be repayable or recoverable under the old law or recoverable under the new (regulations 16 to 18 and 20).

They revoke the existing regulations on these topics and make consequential amendments, except in relation to reviews of and appeals from past determinations regarding repayment and recoverability (regulations 1, 19 and 20).

Articles 28, 52(1)(s) and (t) and 54 of the Social Security (Northern Ireland) Order 1986 are some of the enabling provisions under which these regulations are made. They are brought into operation on 6th April 1987 by the Social Security (1986 Order) (Commencement No. 3) Order (Northern Ireland) 1987 (S.R. 1987 No. 21 (C. 3)).

These regulations correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.