

## 1993 No. 375

## SOCIAL SECURITY

**The Social Security (Claims and Payments) (Amendment No. 3) Regulations (Northern Ireland) 1993**

Made . . . . . 1st September 1993

*Coming into operation in accordance with regulation 1(1)*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 5(1)(a), (b), (g), (j), (n), (o) and (q), 6(b) and 13A of the Social Security Administration (Northern Ireland) Act 1992(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Social Security (Claims and Payments) (Amendment No. 3) Regulations (Northern Ireland) 1993 and shall come into operation as follows—

- (a) for the purposes of regulations 1 to 3(2), 3(4) and 3(7) to 3(12) on 27th September 1993;
- (b) for the purposes of regulation 3(6) on 25th October 1993; and
- (c) for the purposes of regulations 3(3), 3(5) and 4 on 15th November 1993.

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

*Amendment of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977*

2. In regulation 25(3) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(c) (obligations of employers) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

- “(a) keep readily accessible a means (whether in a book or by electronic means), in a form approved by the Department, by which a person employed by the employer or some other person acting on his behalf may record the appropriate particulars (as defined in regulation 24) of any accident causing personal injury to that person; and

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(a) 1992 c. 8; section 13A was inserted by paragraph 1 of the Schedule to the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992 (S.I. 1992/1309 (N.I. 9))

(b) 1954 c. 33 (N.I.)

(c) S.R. 1977 No. 351, to which there are amendments not relevant to these regulations

- (b) preserve every such record for the period of at least 3 years from the date of its entry.”.

*Amendment of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987*

3.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(a) shall be amended in accordance with paragraphs (2) to (12).

(2) In regulation 6 (date of claim)—

(a) in paragraph (8) at the beginning there shall be inserted “Subject to paragraph (8A),”; and

(b) after paragraph (8) there shall be inserted the following paragraph—

“(8A) Where, in a case which would otherwise fall within paragraph (8), it is not possible to determine the date when the request for a claim form was received in an appropriate office because of a failure to record that date, the claim shall be treated as having been made on the date 6 weeks before the date on which the properly completed claim form is received in an appropriate office.”.

(3) In regulation 17 (duration of awards)—

(a) paragraphs (2) and (3) shall be omitted; and

(b) in paragraph (6) for “paragraphs (2) and (4)” there shall be substituted “paragraph (4)”.

(4) In regulation 19(3)(a) (time for claiming benefit) for “to one month” there shall be substituted “and if the time prescribed in relation to that benefit in column (2) of that Schedule is less than one month, by such period as may be specified in the certificate, but not so as to extend the prescribed time for claiming to more than one month”.

(5) In regulation 21 (direct credit transfer) for paragraph (6) there shall be substituted the following paragraph—

“(6) This regulation applies to the payment of retirement pension, widow’s pension, widowed mother’s allowance, child benefit, disability living allowance, disability working allowance, family credit, unemployment benefit, income support, sickness benefit, invalidity benefit, severe disablement allowance and any increase of those benefits payable in respect of a child or adult dependant.”.

(6) In regulation 27 (family credit and disability working allowance)—

(a) in paragraph (1) after “Subject to regulation 21” there shall be inserted “and paragraph (1A)”; and

(b) after paragraph (1) there shall be inserted the following paragraph—

“(1A) Subject to paragraph (2), where an amount of family credit or disability working allowance becomes payable which is at a weekly rate of not more than £4·00, that amount shall, if the Department so directs, be

(a) S.R. 1987 No. 465; relevant amending regulations are S.R. 1988 No. 67, S.R. 1989 Nos. 40 and 398, S.R. 1990 No. 398, S.R. 1991 No. 488, S.R. 1992 Nos. 7, 83 and 271 and S.R. 1993 Nos. 149 and 217

payable as soon as practicable by means of a single payment; except that if that amount represents an increase in the amount of either of those benefits which has previously been paid in respect of the same period, this paragraph shall apply only if that previous payment was made by means of a single payment.”.

(7) In regulation 30 (payments on death)—

(a) in paragraphs (6) and (6B) at the beginning there shall be inserted “Subject to paragraph (6C),”; and

(b) after paragraph (6B) there shall be inserted the following paragraphs—

“(6C) Subject to paragraph (6D), where the Department certifies that to do so would be consistent with the proper administration of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) the period specified in paragraphs (6)(a) and (c) and (6B)(b) and (c) shall be extended by such period, not exceeding 6 months, as may be specified in the certificate.

(6D)(a) Where a certificate is given under paragraph (6C) extending the period specified in paragraph (6)(a) or (6B)(b), the period specified in paragraph (6)(c) or (6B)(c) shall be shortened by a period corresponding to the period specified in the certificate;

(b) no certificate shall be given under paragraph (6C) which would enable a claim to be made more than 12 months after the date of death (in a case falling within paragraph (6)) or the date of a death certificate being issued in respect of the person who has died (in a case falling within paragraph (6B)); and

(c) in the application of sub-paragraph (b) any period between the date when an application for a person to be appointed to make a claim is made and the date when that appointment is made shall be disregarded.”.

(8) In regulation 36 (suspension in individual cases)—

(a) in paragraphs (2), (3) and (4) for “on or before the relevant date” there shall be substituted “within the relevant period”; and

(b) for paragraph (5) there shall be substituted the following paragraph—

“(5) For the purposes of this regulation—

(a) “relevant period” means—

(i) where the appeal in question would fall to be determined by a Social Security Commissioner, the period of one month, and

(ii) in any other case, the period of 3 months, beginning with the date on which notice in writing of the

decision in question and of the reasons for it is received by the adjudication officer; and

- (b) a claimant is to be treated as having been given the notice required by paragraph (3) on the date on which it is posted to him at his last known address.”

(9) For regulation 36A (suspension in identical cases) there shall be substituted the following regulation—

“36A.—(1) Where it appears to the Department that—

- (a) an appeal has been brought or a question arises whether an appeal ought to be brought against a decision of a Social Security Commissioner or of the appropriate court in relation to a case (“the primary case”); and
- (b) if such an appeal were to be allowed a question would arise in relation to another case (“the secondary case”) whether the award of benefit (whether the same benefit as in the primary case or not) in that case ought to be revised,

it may direct that payment of benefit under the award in the secondary case be suspended, in whole or in part—

- (i) until the time limit for making an application or lodging a petition for leave to appeal in the primary case has expired, or
- (ii) if such an application is made or petition lodged, until that application or petition and any consequent appeal has been determined,

whichever is the later.

(2) In this regulation “appeal” includes an appeal in relation to an application for judicial review made in accordance with Order 53 of the Rules of the Supreme Court (Northern Ireland) 1980(a) and in relation to such an application “the appropriate court” includes the High Court.”

(10) In regulation 37(2A) (extinguishment of right to payment of sums by way of benefit where payment is not obtained within the prescribed period) for sub-paragraphs (c) and (d) there shall be substituted the following sub-paragraph—

“(c) the Department has certified either—

- (i) that no instrument of payment has been given or sent to the person to whom it is payable and that no payment has been made under the provisions of regulation 21 (direct credit transfer), or
- (ii) that such instrument has been produced to it and no further instrument has been issued as a replacement,”

(11) In Schedule 8A (deductions from benefits and direct payment to third parties)—

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(a) S.R. 1980 No. 346

- (a) in paragraph 1 (interpretation) in the definition of "mortgage payment" at the end there shall be inserted " , minus any amount which is not allowed under paragraph 10 (restriction on meeting housing costs) or deducted under paragraph 11 (non-dependent deductions) of that Schedule"; and
- (b) in paragraph 4(2) (miscellaneous accommodation costs) after head (aa) there shall be inserted the following head—
- “(ab) in a case where the beneficiary does not have a preserved right within the meaning of regulation 19 of the Income Support Regulations and is not liable to make a payment to the Department under Article 36(3) or 99(1) of the Health and Personal Social Services (Northern Ireland) Order 1972(a) an amount equal to the amount of the award of income support payable to the beneficiary but excluding an amount, if any, which when added to any other income of the beneficiary (as determined in accordance with regulation 28 of the Income Support Regulations) will equal the aggregate of the amounts—
- (i) prescribed by paragraph 12 of Schedule 4 to the Income Support Regulations, and
- (ii) where the charge for the accommodation does not include the provision of all meals, an amount calculated under paragraph 2(2)(b) of that Schedule;”.

(12) In Schedule 8B (deductions of mortgage interest from benefit and payment to qualifying lenders) in paragraph 3(1) (specified part of relevant benefit) after "relevant benefits which" there shall be inserted " , as determined by the adjudicating authority, ”.

### Revocations

4. Regulation 7(8)(b) of the Social Security (Miscellaneous Provisions) (Amendment) Regulations (Northern Ireland) 1992(b) and regulation 2(2)(d) of the Social Security (Claims and Payments) (Amendment No. 2) Regulations (Northern Ireland) 1993(c) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 1st September 1993.

(L.S.)

W. G. Purdy

Assistant Secretary

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(a) S.I. 1972/1265 (N.I. 14); Articles 36 and 99 were substituted by Articles 25 and 27 respectively of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1)); Article 36 was amended by paragraph 2(3) to (5) of Schedule 1 to the Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (N.I. 20))

(b) S.R. 1992 No. 83

(c) S.R. 1993 No. 217

## EXPLANATORY NOTE

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

These regulations amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977 (“the 1977 regulations”) and the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the 1987 regulations”).

Regulation 25 of the 1977 regulations is amended so as to permit the record of industrial accidents which employers are required to keep to be kept by electronic means (regulation 2).

The principal amendments to the 1987 regulations are—

- (a) to regulation 6 to deal with the case where it is not possible to determine the date on which a request for a claim form for disability living allowance or attendance allowance was received (regulation 3(2));
- (b) to regulation 17 to provide for awards of sickness benefit, invalidity benefit and severe disablement allowance to be made for an indefinite period (regulation 3(3));
- (c) to regulation 19(3) dealing with extensions of time for claiming benefit (regulation 3(4));
- (d) to regulation 21 to allow payments of sickness benefit, invalidity benefit and severe disablement allowance by automated credit transfer (regulation 3(5));
- (e) to regulation 27 to permit amounts of family credit or disability working allowance of not more than £4.00 a week to be paid in a lump sum (regulation 3(6));
- (f) to regulation 30 to permit the time allowed for applying for someone to be appointed to make a claim for benefit to which a deceased person was entitled, and for making the claim, to be extended (regulation 3(7));
- (g) to regulations 36 and 36A dealing with the suspension of benefit pending an appeal (regulation 3(8) and (9));
- (h) to regulation 37 relating to the extinguishment of the right to payment of benefit (regulation 3(10)); and
- (i) to Schedule 8A to permit benefit to be paid direct to the proprietor of a residential home (regulation 3(11)).

Regulation 4 contains consequential revocations.

These regulations correspond to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.