STATUTORY RULES OF NORTHERN IRELAND

1999 No. 472 (C. 36)

SOCIAL SECURITY

The Social Security (1998 Order) (Commencement No. 11 and Consequential and Transitional Provisions) Order (Northern Ireland) 1999

Made - - - - 26th November 1999

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 1(2) and (4) of the Social Security (Northern Ireland) Order 1998(**1**) and of all other powers enabling it in that behalf, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Social Security (1998 Order) (Commencement No. 11 and Consequential and Transitional Provisions) Order (Northern Ireland) 1999.

(2) In this Order "the Order" means the Social Security (Northern Ireland) Order 1998.

Appointed day

2.—(1) Subject to paragraph (2), the day appointed for the coming into operation of—

(a) the provisions of the Order specified in Schedule 1; and

(b) Articles 3 and 5 to 8 of the Order in so far as they relate to—

(i) statutory sick pay under Part XI of the Contributions and Benefits Act, and

(ii) statutory maternity pay under Part XII of that Act,

in so far as they are not already in operation, is 29th November 1999.

(2) Paragraph (1)(*a*) shall not apply in relation to—

(a) housing benefit; or

(b) decisions to which Article 4(6) of the Social Security Contributions (Transfer of Functions, etc.) (1999 Order) (Commencement No. 1 and Transitional Provisions) Order (Northern Ireland) 1999(**2**) applies.

(**1**) S.I.1998/1506 (N.I. 10)
(**2**) S.R. 1999 No. 149 (C. 15)

(3) The day appointed for the coming into operation of paragraph 10 of Schedule 1 to the Order (appeal tribunals: supplementary provisions) and Articles 6(3) and 8(7) of the Order in so far as they relate to it is 31st March 2000.

Commencement

3. This Article and Articles 4 to 23 shall come into operation on 29th November 1999 and shall not have effect in relation to—

(a) working families' tax credit;

(b) disabled person's tax credit; or

(c) decisions to which Article 4(6) of the Social Security Contributions (Transfer of Functions, etc.) (1999 Order) (Commencement No. 1 and Transitional Provisions) Order (Northern Ireland) 1999 applies.

Consequential Amendments

Amendment of the Social Security Benefit (Dependency) Regulations

4.—(1) The Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977(**3**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) for the definition of "the determining authority"(**4**) there shall be substituted the following definition—

> ""the determining authority" means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the Social Security (Northern Ireland) Order 1998 or a Commissioner to whom an appeal lies under Article 15 of that Order;".

(3) In regulation 3(4)(*b*) (allocation of contributions for spouse or children)—

(a) for "varied on review" there shall be substituted "superseded";

(b) for "such review" there shall be substituted "such supersession"; and

(c) for "the review" there shall be substituted "the supersession".

Amendment of the Social Security (General Benefit) Regulations

5.—(1) The Social Security (General Benefit) Regulations (Northern Ireland) 1984(**5**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) for the definition of "determining authority"(**6**) there shall be substituted the following definition—

> ""the determining authority" means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the Social Security (Northern Ireland) Order 1998 or a Commissioner to whom an appeal lies under Article 15 of that Order;".

(3) In regulation 11 (further definition of the principles of assessment of disablement and prescribed degrees of disablement)—

(**3**) S.R. 1977 No. 74; relevant amending regulations are S.R. 1983 No. 193 and S.R. 1984 No. 174
(**4**) The definition of "the determining authority" was substituted by regulation 8 of S.R. 1984 No. 174
(**5**) S.R. 1984 No. 92; relevant amending regulations are S.R. 1984 No. 174 and S.R. 1992 No. 6
(**6**) The definition of "determining authority" was substituted by regulation 26(*a*) of S.R. 1984 No. 174 and amended by regulation 7(2) of S.R. 1992 No. 6

(a) in paragraphs (7) and (8)(**7**) for "the medical appeal tribunal, the adjudicating medical practitioner or 2 or more adjudicating medical practitioners (as the case may be)" there shall be substituted "the Department or, as the case may be, an appeal tribunal"; and

(b) paragraph (9) shall be omitted.

Amendment of the Social Fund (Maternity and Funeral Expenses) (General) Regulations

6. In regulation 3(4) of the Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987(**8**) (provision against double payment)—

(a) in sub-paragraph (*a*) for "reviewed" there shall be substituted "revised"; and

(b) in sub-paragraph (*b*) "on that review" shall be omitted.

Amendment of the Income Support (General) Regulations

7.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(**9**) shall be amended in accordance with paragraphs (2) to (12).

(2) Subject to paragraphs (7) and (10), for "an adjudication officer" and "the adjudication officer" in each place where they occur there shall be substituted "the Department".

(3) In regulation 2(1) (interpretation) after the definition of "the 1972 Order" there shall be inserted the following definition—

""the 1998 Order" means the Social Security (Northern Ireland) Order 1998;".

(4) In regulation 5(2)(*b*)(ii) (persons treated as engaged in remunerative work) for "of review" there shall be substituted "on which a superseding decision is made under Article 11 of the 1998 Order".

(5) In regulation 38(7) (calculation of net profit of self-employed earners) for "he" there shall be substituted "it".

(6) In regulation 41(**10**) (capital treated as income) for paragraph (1) there shall be substituted the following paragraph—

"(1) Capital which is payable by instalments which are outstanding on—

(a) the first day in respect of which income support is payable or the date of the determination of the claim, whichever is earlier; or

(b) in the case of a supersession, the date of that supersession,

shall be treated as income if the aggregate of the instalments outstanding and the amount of the claimant's capital otherwise calculated in accordance with Chapter VI of this Part exceeds £8,000 or, in a case where regulation 45(*b*)(**11**) applies, £16,000.".

(7) In regulation 42 (notional income)—

(a) in paragraph (5) for "subsequent review the adjudication officer" there shall be substituted "revision or supersession the Department"; and

(b) in paragraph (6) for "satisfies him" there shall be substituted "satisfies the Department".

(8) In regulation 44 (modifications in respect of children and young persons) for paragraph (1) there shall be substituted the following paragraph—

(**7**) Paragraphs (7) and (8) were amended and paragraph (9) was added by regulation 26(*c*) of S.R. 1984 No. 174
(**8**) S.R. 1987 No. 150; relevant amending regulations are S.R. 1997 No. 472
(**9**) S.R. 1987 No. 459; relevant amending regulations are S.R. 1989 Nos. 139 and 395, S.R. 1990 No. 137, S.R. 1995 Nos. 301 and 367, S.R. 1996 No. 93 and S.R. 1997 No. 22
(**10**) Regulation 41(1) was amended by regulation 5(2) of S.R. 1990 No. 137 and regulation 3(1) of S.R. 1997 No. 22
(**11**) Regulation 45 was substituted by regulation 11(1)(*a*) of S.R. 1996 No. 93

"(1) Any capital of a child or young person payable by instalments which are outstanding on—

(a) the first day in respect of which income support is payable or at the date of the determination of the claim, whichever is the earlier; or

(b) in the case of a supersession, the date of that supersession,

shall be treated as income if the aggregate of the instalments outstanding and the amount of that child's or young person's other capital calculated in accordance with Chapter VI of this Part in like manner as for the claimant would exceed £3,000.".

(9) In regulation 49(*b*)(i) (calculation of capital in the United Kingdom) for "review, the date of any subsequent review" there shall be substituted "supersession, the date of that supersession".

(10) In regulation 69 (disregard of changes occurring during summer vacation) for "an adjudication officer shall disregard" there shall be substituted "there shall be disregarded".

(11) In Schedule 3(**12**) (housing costs)—

(a) in paragraph 13 (excessive housing costs)—

(i) for sub-paragraph (6) there shall be substituted the following sub-paragraph—

"(6) Where sub-paragraph (4) does not apply and the claimant (or other member of the family) was able to meet the financial commitments for the dwelling occupied as the home when these were entered into, no restriction shall be made under this paragraph during the 26 weeks immediately following the date on which—

(a) the claimant became entitled to income support where his housing costs fell within one of the cases in sub-paragraph (1) on that date; or

(b) a decision took effect which was made under Article 11 of the 1998 Order on the ground that the claimant's housing costs fell within one of the cases in sub-paragraph (1),

nor during the next 26 weeks if and so long as the claimant uses his best endeavours to obtain cheaper accommodation."; and

(ii) in sub-paragraph (8)(*b*) "on appeal or review" shall be omitted; and

(b) in paragraph 14 (linking rule)—

(i) in sub-paragraph (1)(*a*)(i) for "held, on appeal or review," there shall be substituted "determined",

(ii) in sub-paragraph (1)(*b*) for "held on appeal or review" there shall be substituted "determined", and

(iii) in sub-paragraph (2)(*a*) "on review" shall be omitted.

(12) In Schedule 3B(**13**) (protected sum), in paragraph 3(4) (persons not entitled to a protected sum)—

(a) "on review" in each place where it occurs shall be omitted; and

(b) in head (*a*) for "that review" there shall be substituted "that determination".

Amendment of the Housing Benefit (General) Regulations

8.—(1) The Housing Benefit (General) Regulations (Northern Ireland) 1987(**14**) shall be amended in accordance with paragraphs (2) and (3).

(**12**) Schedule 3 was substituted by Schedule 1 to S.R. 1995 No. 301

(**13**) Schedule 3B was inserted by paragraph 18 of Schedule 1 to S.R. 1989 No. 139 and paragraph 3(4) was added by regulation 9(*c*)(ii) of S.R. 1989 No. 395

(**14**) S.R. 1987 No. 461; relevant amending regulations are S.R. 1995 Nos. 89 and 129 and S.R. 1996 No. 334

(2) In regulation 2(1) (interpretation) the definition of "adjudication officer"(**15**) shall be omitted.

(3) In regulation 95(4A)(**16**) (withholding of benefit) for "an adjudication officer" in both places where it occurs there shall be substituted "the Department".

Amendment of the Social Security (Claims and Payments) Regulations

9.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**17**) shall be amended in accordance with paragraphs (2) to (14).

(2) Subject to paragraphs (5)(*b*), (9) and (14), for "the adjudicating authority" and "an adjudicating authority" in each place where they occur there shall be substituted "the Department".

(3) In regulation 2(1) (interpretation)—

(a) the definition of "adjudicating authority" shall be omitted; and

(b) in the definition of "claim for benefit" in paragraph (*c*) for "the review of an award or"—

(i) in the first place where it occurs there shall be substituted "a revision under Article 10 of the 1998 Order or supersession under Article 11 of that Order of", and

(ii) in the second place where it occurs there shall be substituted "a revision or a supersession of".

(4) In regulation 3 (claims not required for entitlement to benefit in certain cases) for paragraph (*g*)(**18**) there shall be substituted the following paragraph—

"(g) in the case of a jobseeker's allowance where—

(i) payment of benefit has been suspended under regulation 16(2) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999, and

(ii) the claimant, whose benefit has been suspended, satisfies the conditions of entitlement (apart from the requirement to claim) to that benefit immediately the suspension ends;".

(5) In regulation 13 (advance claims and awards)—

(a) in paragraph (1) for "that authority" there shall be substituted "the Department"; and

(b) in paragraph (2) for "An award under paragraph (1)(*b*) shall be reviewed by the adjudicating authority" there shall be substituted "A decision pursuant to paragraph (1)(*b*) to award benefit may be revised under Article 10 of the 1998 Order".

(6) In regulation 17(7) (duration of awards) "; and where those requirements are not satisfied the award shall be reviewed" shall be omitted.

(7) In regulation 26(**19**) (income support)—

(a) in paragraph (1) for "the day when any change of circumstances affecting entitlement is to have" there shall be substituted "the date from which a superseding decision on the ground of a relevant change of circumstances has"; and

(b) in paragraphs (2) and (3) "on review" shall be omitted.

(**15**) The definition of "adjudication officer" was inserted by regulation 2 of S.R. 1995 No. 129
(**16**) Paragraph (4A) was inserted by regulation 9(*a*) of S.R. 1995 No. 89 and amended by regulation 17 of S.R. 1996 No. 334
(**17**) S.R. 1987 No. 465; relevant amending provisions are S.R. 1988 Nos. 67 and 141, S.R. 1989 Nos. 40 and 398, S.R. 1990 No. 398, S.R. 1991 No. 488, S.R. 1992 Nos. 83 and 271, S.R. 1993 Nos. 146, 149, 217 and 375, S.R. 1996 Nos. 354 and 432, S.R. 1998 No. 182 and S.R. 1999 Nos. 246 (C. 20) and 428 (C. 32)
(**18**) Paragraph (g) was added by regulation 2(3) of S.R. 1996 No. 354 and amended by Article 5(3) of S.R. 1999 No. 428 (C. 32)
(**19**) Regulation 26 was amended by regulation 6 of S.R. 1988 No. 141, regulation 4 of S.R. 1989 No. 40 and regulation 2(3) of S.R. 1993 No. 217