1992 No. 271

SOCIAL SECURITY

The Social Security (Claims and Payments) (Amendment No. 2) Regulations (Northern Ireland) 1992

Made . . . . . 12th June 1992

Coming into operation in accordance with regulation 1(1)

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 52(1)(*q*) and 52A(2) to (4) of the Social Security (Northern Ireland) Order 1986(**a**) and Article 5(1) of the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992(**b**) and of all other powers enabling it in that behalf, after consultation with such organisations representing qualifying lenders likely to be affected by the regulations as it considers appropriate(**c**), 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. 2) Regulations (Northern Ireland) 1992 and shall come into operation as follows—

(*a*) regulation 1 and regulations 2 and 5 insofar as they relate to paragraphs 1 and 8 of Schedule 8B to the principal regulations, on 13th June 1992; and

(*b*) for all other purposes—

(i) to the extent that they relate to claims for any relevant benefit made on or after 6th July 1992, or made before 6th July 1992 but determined on or after that date, on 6th July 1992, and

(ii) in any other case, in relation to a particular beneficiary, on the date the first determination is made by an adjudication officer in respect of that beneficiary's award of any relevant benefit on or after 6th July 1992.

(2) In these regulations—

"the principal regulations" means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**d**);

"relevant benefits" has the same meaning as in paragraph 1 of Schedule 8B to the principal regulations(**e**).

(**a**) S.I. 1986/1888 (N.I. 18); Article 52A was inserted by Article 3(1) of the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992 (S.I. 1992/1309 (N.I. 9))

(**b**) S.I. 1992/1309 (N.I. 9)

(**c**) *See* Article 52A(2) of the Social Security (Northern Ireland) Order 1986

(**d**) S.R. 1987 No. 465; relevant amending regulations are S.R. 1988 Nos. 67, 141 and 369, S.R. 1989 No. 40, S.R. 1990 No. 398 and S.R. 1991 No. 488

(**e**) Schedule 8B is inserted by regulation 5 of, and the Schedule to, these regulations

Insertion of regulation 34ZA into the principal regulations

2. After regulation 34 of the principal regulations (payment to another person on the beneficiary's behalf) there shall be inserted the following regulation—

"*Deductions of mortgage interest which shall be made from benefit and paid to qualifying lenders*

34ZA.—(1) In relation to cases to which Article 52A(1) of the Order (payment out of benefit of sums in respect of mortgage interest, etc.) applies and in the circumstances specified in Schedule 8B, such part of any relevant benefits to which a relevant beneficiary is entitled as may be specified in that Schedule shall be paid by the Department directly to the qualifying lender and shall be applied by that lender towards the discharge of the liability in respect of that mortgage interest.

(2) The provisions of Schedule 8B shall have effect in relation to mortgage interest payments.".

Amendment of regulation 34A of the principal regulations

3. In regulation 34A(1) of the principal regulations (deductions from benefits and direct payment to third parties) for the words preceding "may be made from benefits and" there shall be substituted—

"*Deductions which may be made from benefits and paid to third parties*

34A.—(1) Except as provided for in regulation 34ZA and Schedule 8B, deductions".

Amendment of Schedule 8A to the principal regulations

4.—(1) Schedule 8A to the principal regulations (deductions from benefits and direct payment to third parties) shall be amended in accordance with paragraphs (2) to (4).

(2) In paragraph 3 (housing costs)—

(*a*) in sub-paragraph (1)—

(i) for "sub-paragraph (3)" there shall be substituted "sub-paragraphs (3) to (5)", and

(ii) for "sub-paragraphs (2) and (3)" there shall be substituted "sub-paragraphs (2), (2A) and (3)";

(*b*) in sub-paragraph (2) at the beginning there shall be inserted "Subject to sub-paragraph (2A),";

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

"(2A) Where a payment falls to be made to a third party in accordance with this Schedule and—

(*a*) more than one item of housing costs falls to be taken into account in determining the beneficiary's applicable amount; and

(*b*) in accordance with paragraph 10 (restriction on meeting housing costs) or 11 (non-dependant deductions) of Schedule 3 to the Income Support Regulations an amount is not allowed or a deduction falls to be made from the amount to be met by way of housing costs,

then in calculating the amount deductible, the weekly aggregate ascertained in accordance with sub-paragraph (2) shall be reduced by an amount determined by applying the formula—

$$C \times \frac{B}{A}$$

where—

A = housing costs;

B = the item of housing costs which falls to be paid to a third party under this Schedule;

C = the sum which is not allowed or falls to be deducted in accordance with paragraph 10 or, as the case may be, paragraph 11 of Schedule 3 to the Income Support Regulations."; and

(*d*) after sub-paragraph (3) there shall be added the following sub-paragraphs—

"(4) No amount shall be paid pursuant to this paragraph in respect of mortgage interest in any case where a specified part of relevant benefits—

(*a*) is required to be paid directly to a qualifying lender under regulation 34ZA and Schedule 8B; or

(*b*) would have been required to be paid to a body which, or a person who, would have been a qualifying lender but for an election given under paragraph 8 of Schedule 8B not to be regarded as such.

(5) In sub-paragraph (4) "specified part" and "relevant benefits" have the same meaning as in paragraph 1 of Schedule 8B.".

(3) In paragraph 8 (aggregate amounts and maximum amount of payments to third parties)—

(*a*) in sub-paragraph (2) after "and 7(3)" there shall be inserted "and paragraph 3(5) of Schedule 8B"; and

(*b*) after sub-paragraph (3) there shall be added the following sub-paragraph—

"(4) Where the aggregate of the amounts payable under the provisions mentioned in sub-paragraph (3) does not exceed the sum there mentioned ("the specified sum") but does exceed that sum where the aggregate includes in addition any amount required to be paid in accordance with paragraph 3(5) of Schedule 8B, then in relation to the amounts payable under the provisions mentioned in sub-paragraph (3) the consent of the beneficiary is required to the payment of so much of the specified sum as represents the amount by which that sum is so

exceeded and where the beneficiary does not so consent the adjudicating authority shall determine that an amount equal to the specified sum shall be paid.".

(4) In paragraph 9(1) (priority as between debts)—

(*a*) after "applicable to the beneficiary" there shall be inserted "or one or more of those paragraphs are applicable to the beneficiary and Schedule 8B also applies"; and

(*b*) after "priorities shall apply—" there shall be inserted the following head—

"(*za*) any liability mentioned in Schedule 8B;".

Insertion of Schedule 8B into the principal regulations

5. After Schedule 8A to the principal regulations there shall be inserted as Schedule 8B the Schedule set out in the Schedule to these regulations.

Sealed with the Official Seal of the Department of Health and Social Services on 12th June 1992.

(L.S.) *A. N. Burns*
Assistant Secretary