1992 No. 83

SOCIAL SECURITY; STATUTORY SICK PAY

The Social Security (Miscellaneous Provisions) (Amendment) Regulations (Northern Ireland) 1992

Made . . . . . 5th March 1992

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 35(5), 37A(2), 47A, 47B(2), 114(1) and (2), 115(1), 119(4)(*a*) and 154A(1) of, and paragraph 2 of Schedule 13 to, the Social Security (Northern Ireland) Act 1975(**a**), Article 19(2A) of the Social Security (Northern Ireland) Order 1982(**b**) and Articles 52(1)(*a*) to (*c*), (*g*), (*j*), (*l*) and (*o*) to (*q*) and 55 of the Social Security (Northern Ireland) Order 1986(**c**) 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 (Miscellaneous Provisions) (Amendment) Regulations (Northern Ireland) 1992 and shall come into operation as follows—

(*a*) for the purposes of regulations 1 to 7(1) and 7(2)(*a*)(ii) to 8(1) on 9th March 1992;

(*b*) for the purposes of regulation 7(2)(*a*)(i) on 10th March 1992; and

(*c*) for the purposes of regulation 8(2) on 6th April 1992.

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

(**a**) 1975 c. 15; section 37A(2) was inserted by Article 24(1) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) and amended by Article 72(1) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)); section 47A was inserted by paragraph 5(1) of Schedule 1 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)) and amended by paragraph 1(2) of Schedule 6 to the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15)); section 47B was inserted by Article 8(*a*) of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)) and amended by Article 11(3) of the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)); section 154A was inserted by Article 17 of the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), substituted by paragraph 56 of Schedule 9 to the Social Security (Northern Ireland) Order 1986 and extended by paragraph 32 of that Schedule, paragraphs (*a*) and (*b*) of subsection (1) were substituted by paragraph 8 of Schedule 8 to the Social Security (Northern Ireland) Order 1989 and subsection (1) was amended by Article 8(1) of the Social Security (Northern Ireland) Order 1990. Section 115(1) and paragraph 2 of Schedule 13 were extended by Article 53(3) and (6) of the Social Security (Northern Ireland) Order 1986

(**b**) S.I. 1982/1084 (N.I. 16); paragraph (2A) of Article 19 was inserted by Article 20 of the Social Security (Northern Ireland) Order 1985

(**c**) S.I. 1986/1888 (N.I. 18)

(**d**) 1954 c. 33 (N.I.)

Amendment of the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976

2.—(1) The Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(**a**) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (evidence of incapacity for work and confinement) for "either by means of a certificate" to the end there shall be substituted—

"either—

(*a*) by means of a certificate in the form of a statement in writing given by a doctor in accordance with the rules set out in Part I of Schedule 1 to these regulations on the form set out in Part II of that Schedule;

(*b*) where a doctor—

(i) has not given a statement under sub-paragraph (*a*) of this paragraph since the claimant was examined and wishes to give such a statement but more than one day has passed since the examination, or

(ii) advises that the claimant should refrain from work on the basis of a written report from another doctor,

by means of a special statement given in accordance with the rules set out in Part I of Schedule 1A to these regulations on the form set out in Part II of that Schedule; or

(*c*) by such other means as may be sufficient in the circumstances of any particular case.".

(3) In Schedule 1 in the heading for "Regulation 2(1)" there shall be substituted "Regulation 2(1)(*a*)".

(4) After Schedule 1 there shall be inserted as Schedule 1A the Schedule set out in Schedule 1 to these regulations.

Amendment of the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977

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

(2) In regulation 9A (apportionment of payments by way of occupational pension made otherwise than weekly) for "occupational pensions" in both places where it occurs there shall be substituted "occupational or personal pension".

(3) In regulation 13(2) (increase of unemployment benefit, sickness benefit or invalidity pension for persons over pensionable age) after "paragraph 1(*b*)" there shall be inserted ", paragraph 1(*d*)".

(**a**) S.R. 1976 No. 175; relevant amending regulations are S.R. 1982 No. 153.
(**b**) S.R. 1977 No. 74; relevant amending regulations are S.R. 1980 No. 216 and S.R. 1989 No. 103

Amendment of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982

4. In regulation 22 of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982(**a**) (penalties)—

(*a*) in paragraph (*a*) for ''£200'' there shall be substituted ''£400''; and

(*b*) in paragraph (*b*)—

(i) after ''continuing any such'' there shall be inserted ''contravention or'', and

(ii) for ''£20'' there shall be substituted ''£40''.

Amendment of the Statutory Sick Pay (Medical Evidence) Regulations (Northern Ireland) 1985

5.—(1) The Statutory Sick Pay (Medical Evidence) Regulations (Northern Ireland) 1985(**b**) shall be amended in accordance with paragraphs (2) to (5).

(2) Regulation 1(3) (citation, commencement and interpretation) shall be omitted.

(3) For regulation 2(1) (medical information) there shall be substituted the following paragraph—

''(1) Medical information required under Article 19(2) of the Order relating to incapacity for work shall be provided either—

(*a*) in the form of a statement given by a doctor in accordance with the rules set out in Part I of Schedule 1 on the form set out in Part II of that Schedule;

(*b*) where a doctor—

(i) has not given a statement under sub-paragraph (*a*) since the patient was examined and wishes to give such a statement but more than one day has passed since the examination, or

(ii) advises that the patient should refrain from work on the basis of a written report from another doctor,

by means of a special statement given in accordance with the rules set out in Part I of Schedule 2 on the form set out in Part II of that Schedule; or

(*c*) by such other means as may be sufficient in the circumstances of any particular case.''.

(4) The existing Schedule shall be numbered as Schedule 1 and in the heading for ''Regulation 1(3)'' there shall be substituted ''Regulation 2(1)(*a*)''.

(5) After Schedule 1 there shall be added as Schedule 2 the Schedule set out in Schedule 2 to these regulations.

(**a**) S.R. 1982 No. 263; relevant amending regulations are S.R. 1986 No. 83
(**b**) S.R. 1985 No. 321

Amendment of the Social Security (Adjudication) Regulations (Northern Ireland) 1987

6.—(1) The Social Security (Adjudication) Regulations (Northern Ireland) 1987(**a**) shall be amended in accordance with paragraphs (2) and (3).

(2) After regulation 64A (date from which revised decision has effect on a review in specified circumstances) there shall be inserted the following regulation—

"*Review of decisions in cases to which section 104(7) of the 1975 Act applies*

64B. In any case to which section 104(7) of the 1975 Act applies, the decision given on review shall have effect from the date of the relevant determination within the meaning of that subsection whether the decision which is being reviewed was made before, on or after 9th March 1992.".

(3) In regulations 65(3), 66(1), 69(1), both as continued in operation by regulation 10 of the Social Security (Adjudication) (Amendment No. 2) Regulations (Northern Ireland) 1987 and as amended by regulation 8 of those regulations, and 71, after "regulation 64A(2) or (3)" there shall be inserted "or regulation 64B".

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

7.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**b**) shall be amended in accordance with paragraphs (2) to (10).

(2) In regulation 2 (interpretation)—

(*a*) in paragraph (1)—

(i) in the definition of "benefit" for "and family credit" there shall be substituted ", family credit and disability working allowance", and

(ii) in the expression "claim for benefit" in sub-paragraph (*c*) after "any increase of benefit" there shall be inserted "in respect of a child or adult dependant under the Act or an increase of disablement benefit under section 60 (special hardship), 61 (constant attendance), 62 (hospital treatment allowance) or 63 (exceptionally severe disablement) of the Act"; and

(*b*) in paragraph (2) for "under the Act" there shall be substituted "in respect of a child or adult dependant under the Act or an increase of disablement benefit under section 60 (special hardship), 61 (constant attendance), 62 (hospital treatment allowance) or 63 (exceptionally severe disablement) of the Act".

(3) In regulation 4(1) (making a claim for benefit) after "on a form approved by the Department" there shall be inserted "for the purpose of the benefit for which the claim is made".

(**a**) S.R. 1987 No. 82; relevant amending regulations are S.R. 1987 No. 466, S.R. 1988 No. 369 and S.R. 1991 No. 406

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

(4) In regulation 8(1) (attendance in person) after "in any particular case" there shall be inserted "or class of case".

(5) In regulation 9 (interchange with claims for other benefits) after paragraph (6) there shall be added the following paragraph—

"(7) In determining whether it should treat a claim alternatively or in addition to another claim (the original claim) under this regulation, the Department shall treat the alternative or additional claim, whenever made, as having been made at the same time as the original claim.".

(6) In regulation 13(5) after "1987" there shall be inserted "save that in their application to paragraph (4)(*c*) those regulations shall be read as though for "not less than 24 hours" there were substituted "not less than 16 hours but less than 24 hours" ".

(7) In regulation 19 (time for claiming benefit)—

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

"(2A) In the case of a claim for income support or family credit, where the claimant does not prove that there was good cause for the failure to claim throughout the period specified in paragraph (2) but does prove that there was good cause throughout the period from a date subsequent to the expiry of the prescribed time to the date on which the claim was made, the claim shall be treated as made on—

(*a*) that subsequent date if it is not more than 12 months before the date on which the claim was made; or

(*b*) in any other case the date 12 months before the date on which the claim was made."; and

(*b*) in paragraph (6)(*a*) after "child benefit and" there shall be inserted ", except in a case to which section 154C(3) of the Act(**a**) (late claims for widowhood benefits where death is difficult to establish) applies,".

(8) In regulation 21 (direct credit transfer)—

(*a*) in paragraph (1)—

(i) for "any benefit" there shall be substituted "benefit to which this regulation applies", and

(ii) the words "or other direct" shall be omitted; and

(*b*) after paragraph (5) there shall be added the following paragraph—

"(6) This regulation only applies to the payment of retirement pension, widow's pension, widowed mother's allowance, child benefit, family credit and any increase of those benefits payable in respect of a child or adult dependant.".

(9) For regulation 36 (suspension) there shall be substituted the following regulations—

"*Suspension in individual cases*

36.—(1) Where it appears to the Department that a question arises whether—

(*a*) the conditions for entitlement are or were fulfilled;

(a) Section 154C was inserted by Article 8(2) of the Social Security (Northern Ireland) Order 1990