1991 No. 401

SOCIAL SECURITY

The Social Security (Adjudication) (Amendment) Regulations (Northern Ireland) 1991

Made . . . . . *28th August 1991*

Coming into operation—
for the purposes of regulations 1 and 3 . . . . . *10th September 1991*
for all other purposes . . *11th September 1991*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 104(5)(*b*) and 119(3) and (4) of the Social Security (Northern Ireland) Act 1975(**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 (Adjudication) (Amendment) Regulations (Northern Ireland) 1991 and shall come into operation—

(*a*) for the purposes of regulations 1 and 3 on 10th September 1991;

(*b*) for all other purposes on 11th September 1991.

(2) In these regulations "the principal regulations" means the Social Security (Adjudication) Regulations (Northern Ireland) 1987(**b**).

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

Amendment of the principal regulations

2.—(1) The principal regulations shall be amended in accordance with paragraphs (2) to (4).

(2) In Section D of Part IV immediately before regulation 65 (review of decisions involving payment or increase of benefit other than industrial

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(**a**) 1975 c. 15; section 104(5)(*b*) was added by paragraph 9(*d*) of Schedule 5 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)) and amended by paragraph 11(4) of Schedule 3 to the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)). Section 119(3) was amended by paragraph 8 of Schedule 3 to the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) and repealed in part by Schedule 10 to the Social Security (Northern Ireland) Order 1986 and section 119(4)(*b*) to (*d*) was repealed by Schedule 10 to the Social Security (Northern Ireland) Order 1986 with a saving by Article 4 of S.R. 1987 No. 21 (C. 3). Sections 104(5)(*b*) and 119(3) and (4) were extended by Article 53(3) and (6) of, and paragraph 4(1) of Schedule 7 to, the Social Security (Northern Ireland) Order 1986

(**b**) S.R. 1987 No. 82; relevant amending regulations are S.R. 1987 No. 466 and S.R. 1988 No. 369

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

injuries benefit, mobility allowance, income support or family credit) there shall be inserted the following regulation—

"*Date from which revised decision has effect on a review in specified circumstances*

64A.—(1) In the case of a review to which either paragraph (2) or (3) applies, the decision given shall have effect from the date from which the decision being reviewed had effect or from such earlier date from which the authority which gave the decision being reviewed could have awarded benefit had that authority taken account of the evidence mentioned in paragraph (2) or not overlooked or misconstrued some provision or determination as mentioned in paragraph (3).

(2) This paragraph applies to a review of any decision under subsection (1)(*a*) of section 104 of the 1975 Act(**a**) (review on grounds of ignorance of, or mistake as to, some material fact), whether that decision was made before or after the coming into operation of this regulation, where the reviewing authority, that is to say the adjudication officer or, as the case may be, the appeal tribunal, is satisfied that—

(*a*) the evidence upon which it is relying to revise the decision under review is specific evidence which was directly relevant to the determination of the claim or question and which the authority which was then determining the claim or question had before it at the time of making the decision under review but failed to take into account;

(*b*) the evidence upon which it is relying to revise the decision under review is a document or other record containing such evidence which at the time of making the submission to the authority which was then to determine the claim or question, the officer of the Department who made the submission had in his possession but failed to submit; or

(*c*) the evidence upon which it is relying to revise the decision under review did not exist and could not have been obtained at that time, but was produced to an officer of the Department or to the authority which made the decision as soon as reasonably practicable after it became available to the claimant.

(3) This paragraph applies to a review of any decision under subsection (1A) of section 104 of the 1975 Act(**b**) (review on grounds of error of law), whether that decision was made before or after the coming into operation of this regulation, where the adjudication officer or, as the case may be, the appeal tribunal, is satisfied that the adjudication officer, in giving the decision under review, overlooked or misconstrued either—

(*a*) some statutory provision; or

(*b*) a determination of a Commissioner or the court,

(**a**) Subsection (1)(*a*) was substituted by paragraph 9(*a*) of Schedule 5 to the Social Security (Northern Ireland) Order 1986

(**b**) Subsection (1A) was inserted by paragraph 2 of Schedule 1 to the Social Security Adjudications (Northern Ireland) Order 1983 (S.I. 1983/1524 (N.I. 17)) and amended by Schedule 10 to the Social Security (Northern Ireland) Order 1986