1990 No. 398

SOCIAL SECURITY; HOUSING; RATES

The Social Security (Miscellaneous Provisions) (Amendment) Regulations (Northern Ireland) 1990

Made . . . . . 15th November 1990

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 3(2), 35(6), 37A(2C) and (5A), 104(5), 114(2) and 154A of, and paragraph 6(1) (*gg*) and (*m*) of Schedule 1 to, the Social Security (Northern Ireland) Act 1975(**a**), Article 52(1) of the Social Security (Northern Ireland) Order 1986(**b**) and Article 31(3) of the Social Security (Northern Ireland) Order 1989(**c**) and of all other powers enabling it in that behalf, and after agreement by the Social Security Advisory Committee that proposals to make these regulations in so far as they are required to be referred to it should not be so referred(**d**), 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) 1990 and shall come into operation as follows—

(*a*) for the purposes of regulation 4(3) in relation to the calculation of a person's earnings from an employment, on the first day of the first assessment period to commence on or after 5th December 1990; and

(*b*) for all other purposes on 5th December 1990.

(**a**) 1975 c. 15; section 37A was inserted by Article 24(1) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)), subsection (2C) was inserted by Article 72(2) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)), subsection (5A) was inserted by Article 4(3) of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) and amended by Article 10(1) of the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)); section 104(5) was inserted by paragraph 9(*d*) of Schedule 5 to the Social Security (Northern Ireland) Order 1986 and amended by paragraph 11(3) and (4) of Schedule 3 to the Social Security (Northern Ireland) Order 1989; 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 subsections (1) and (2) were amended by Article 8(1) of the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15)); paragraph 6(1)(*gg*) of Schedule 1 was inserted by Article 4 of the Social Security (Northern Ireland) Order 1989. *See also* Article 53 of the Social Security (Northern Ireland) Order 1986

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

(**c**) S.I. 1989/1342 (N.I. 13)

(**d**) *See* Article 62(1)(*b*) of the Social Security (Northern Ireland) Order 1986

(2) In this regulation ''assessment period'' has the same meaning as in regulation 5(4)(*a*) of the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1978(**a**).

(3) 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 (Mobility Allowance) Regulations (Northern Ireland) 1975

2. Regulation 4(2) of the Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975(**c**) (entitlement to allowance in respect of weeks before that in which claim is received by the Department) for ''by virtue of regulation 6'' there shall be substituted ''by virtue of regulation 39 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**d**)''.

Amendment of the Social Security (Mobility Allowance) (Vehicle Scheme Beneficiaries) Regulations (Northern Ireland) 1977

3. In regulation 6 of the Social Security (Mobility Allowance) (Vehicle Scheme Beneficiaries) Regulations (Northern Ireland) 1977(**e**) (application of the principal Act, the principal regulations and the Social Security (Adjudication) Regulations (Northern Ireland) 1984 in relation to vehicle scheme beneficiaries)—

(*a*) in paragraph (*a*) for ''75'' there shall be substituted ''80''; and

(*b*) in paragraph (*c*)—

(i) for ''the Social Security (Adjudication) Regulations (Northern Ireland) 1984'' there shall be substituted ''the Social Security (Adjudication) Regulations (Northern Ireland) 1987(**f**)'',

(ii) in sub-paragraph (i) for ''regulation 54 after paragraph (1)(*b*)'' there shall be substituted ''regulation 56 after paragraph (2)(*b*)'', and

(iii) for sub-paragraph (ii) there shall be substituted the following sub-paragraph—

''(ii) in regulation 62 after paragraph (4) there were added—

''(5) Where the grounds of an application under paragraph (2) are that a certificate issued for the purposes of Article 10 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(**g**) has been cancelled, the adjudication officer may himself determine

---

(a) S.R. 1978 No. 371; relevant amending regulations are S.R. 1979 No. 97 and S.R. 1989 Nos. 373 and 438

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

(c) S.R. 1975 No. 280; relevant amending regulations are S.R. 1986 No. 341

(d) S.R. 1987 No. 465; relevant amending regulations are S.R. 1988 Nos. 67, 141 and 369, S.R. 1989 Nos. 40 and 398 and S.R. 1990 No. 137

(e) S.R. 1977 No. 242; relevant amending provisions are paragraph 30 of Schedule 3 to the Social Security (Northern Ireland) Order 1979 and S.R. 1984 No. 174

(f) S.R. 1987 No. 82

(g) S.I. 1977/610 (N.I. 11); Article 10 was amended by paragraph 28(*c*) of Schedule 3 to the Social Security (Northern Ireland) Order 1979

any medical question arising on review adversely to the person in question without referring it to a medical board and the provisions of regulations 57(3) and 58 to 61 shall apply to that determination as if it were an adverse determination under regulation 57(2).''.''.

Amendment of the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1978

4.—(1) The Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1978 shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 3(1)(*b*) (payments to be disregarded)—

(*a*) after ''37(1)(*b*),'' there shall be inserted ''41(2A)(**a**),''; and

(*b*) after ''49'' there shall be inserted '', 64(1A)(**b**)''.

(3) In regulation 5 (calculation of earnings of certain retirement pensioners and adult dependants of pensioners)—

(*a*) in paragraph (1)(*a*) after ''specified benefit'' there shall be inserted ''or section 41(2A) or 64(1A) of the Act applies and the beneficiary is entitled to a specified benefit or retirement pension''; and

(*b*) in paragraph (2) for ''sections 45 to 49 (other than subsection (*b*) of section 49) and 66(4) of the Act'' there shall be substituted ''sections 41, 45 to 49 (other than subsection (*b*) of section 49), 64 and 66(4) of the Act''.

Amendment of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1987

5.—(1) The Social Security (Attendance Allowance) Regulations (Northern Ireland) 1987(**c**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 5(1) (exception from regulations 3 and 4) for ''4 weeks'' there shall be substituted ''28 days''.

(3) In regulation 11(4) (children in hospital and certain other accommodation) for ''4 weeks'' there shall be substituted ''28 days''.

Amendment of the Housing Benefit (General) Regulations (Northern Ireland) 1987

6. In regulation 72(15) of the Housing Benefit (General) Regulations (Northern Ireland) 1987(**d**) (time and manner in which claims are to be made) after ''on the date'' there shall be inserted ''not later than 5th December 1990''.

(**a**) Section 41(2A) was inserted by paragraph 2(*c*) of Schedule 3 to the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8))

(**b**) Section 64(1A) was inserted by paragraph 3 of Schedule 3 to the Health and Social Security (Northern Ireland) Order 1984. Section 64 ceased to have effect except for existing beneficiaries from 6th April 1987 by virtue of paragraph 4 of Schedule 3 to the Social Security (Northern Ireland) Order 1986

(**c**) S.R. 1987 No. 413, to which there are amendments not relevant to these regulations

(**d**) S.R. 1987 No. 461; relevant amending regulations are S.R. 1990 No. 137

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

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

(2) In regulation 3 (claims not required for entitlement to benefit in certain cases) after paragraph (*e*) there shall be added the following paragraph—

"(*f*) in the case of an invalidity pension, where in any period of interruption of employment the evidence of incapacity required for determining the beneficiary's entitlement to sickness benefit in that same period of interruption of employment shows that his incapacity will continue until or beyond the first day on which there could be entitlement to an invalidity pension.".

(3) In regulation 6(6) (date of claim) after "on the date" there shall be inserted "not later than 5th December 1990".

(4) In regulation 24(3) (unemployment benefit, sickness or invalidity benefit, severe disablement allowance and maternity allowance) after "sickness or invalidity benefit" there shall be inserted "or severe disablement allowance".

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

(*a*) in paragraph (5) after "the Order" there shall be inserted ", or reduced earnings allowance or disablement benefit"; and

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

"(6A) Where the conditions specified in paragraph (6B) are satisfied, a person may make a claim for reduced earnings allowance or disablement benefit, including any increase under sections 61(**a**) or 63 of the Act, in the name of a person who has died.

(6B) The conditions specified for the purposes of paragraph (6A) are—

(*a*) that the person who has died would have been entitled to the benefit claimed if he had made a claim for it in the prescribed manner and within the prescribed time;

(*b*) that within 6 months of a death certificate being issued in respect of the person who has died, the person making the claim has applied to the Department to be made an appointee of the person who has died and the Department has appointed him; and

(*c*) the claim is made within 6 months of the appointment."; and

(*c*) in paragraph (7) after "with paragraph (5)" there shall be inserted "or (6A)".

(6) In regulation 39 (claim received within 6 months after the end of a period for which mobility allowance is awarded) for "75" there shall be substituted "80".

(**a**) Subsections (3) and (4) of section 61 were inserted by paragraph 6 of Schedule 3 to the Social Security (Northern Ireland) Order 1986