1985 No. 229

SOCIAL SECURITY

The Social Security Benefit (Dependency) (Amendment) Regulations (Northern Ireland) 1985

Made . . . . . *30th August 1985*

Coming into operation . . . *16th September 1985*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 45(2A)(*b*), 45A(3)(*b*), 46(4), 47(1A)(*b*), 49, 66(1)(*d*), (3), (4)(*b*) and (5), 84(4) and 155 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 Benefit (Dependency) (Amendment) Regulations (Northern Ireland) 1985 and shall come into operation on 16th September 1985.

(2) In these regulations "the principal regulations" means the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977(**b**).

Amendment of the principal regulations

2.—(1) The principal regulations shall be amended in accordance with the following provisions.

(2) In regulation 3(1) after "44(1)(*a*)," there shall be inserted "44(3)(*a*)," and after "45(2)(*b*)," there shall be inserted "45A(2)(*b*), 47(1)(*a*),"(**c**).

(3) For paragraph (5) of regulation 3 there shall be substituted the following paragraph—

"(5) In the heading to this regulation and in paragraphs (1) and (2) the word "spouse" includes both husband and wife except in relation to maintenance contributions for the purposes of sections 44(1)(*a*) and 45(2)(*b*) where it means wife only, and in relation to maintenance contributions for the purposes of sections 44(3)(*a*), 45A(2)(*b*) and 47(1)(a) where it means husband only.".

(4) For regulations 8 and 9 there shall be substituted the following regulation—

"*Earnings rules for increases for adult dependants*

8.—(1) This paragraph applies in cases where an increase of benefit is claimed in respect of an adult dependant who is residing with the beneficiary and the increase is claimed under any of the following provisions of the Act—

(**a**) 1975 c. 15; section 45A was inserted by Article 6 of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)); sections 45(2A), 45A(3), 46(4), 47(1A), 66(3), (4) and (5) and 84(4) were amended, inserted or substituted by Article 15 of the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)). Section 66(1)(*d*) was amended by paragraph 24 of Schedule 1 to the Child Benefit (Northern Ireland) Order 1975 (S.I. 1975/1504 (N.I. 16)) and by paragraph 4 of Schedule 1 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8))

(**b**) S.R. 1977 No. 74; the relevant amending regulations are S.R. 1983 No. 193, S.R. 1984 Nos. 373, 377 and 382

(**c**) Section 45A(2) was substituted and section 47(1) was amended by Article 15 of the Social Security (Northern Ireland) Order 1985

(*a*) section 45(2) (increase of Category A or C retirement pension or invalidity pension in respect of a wife);

(*b*) section 45A(1) (increase of Category A retirement pension in respect of a husband);

(*c*) section 46(2) (increase of Category A or C retirement pension or invalidity pension in respect of a person having care of children);

(*d*) section 47(1) (increase of invalidity pension in respect of a husband);

(*e*) section 49 (in so far as it applies to an increase of severe disablement allowance in respect of a spouse or person having care of children); and

(*f*) section 66(1)(*a*) or (*d*) (increase of disablement pension in respect of a spouse or person having care of children where beneficiary entitled to unemployability supplement).

(2) Where paragraph (1) applies there shall be no increase of benefit if, in the week ending last before any week in respect of which the beneficiary is entitled to benefit under any provision specified in paragraph (1), the adult dependant has earnings which exceed the amount specified in sub-paragraph 1(*a*) of Part I of Schedule 4 to the Act.

(3) This paragraph applies in cases where an increase of benefit is claimed in respect of an adult dependant who is not residing with the beneficiary and the increase is claimed under any of the following provisions of the Act—

(*a*) section 47(1)(*a*) (increase of invalidity pension in respect of a husband);

(*b*) section 49 (in so far as it applies to an increase of severe disablement allowance in respect of an adult dependant); and

(*c*) section 66(1)(*a*) (increase of disablement pension in respect of a spouse where beneficiary entitled to unemployability supplement).

(4) Where paragraph (3) applies there shall be no increase of benefit unless the beneficiary is contributing to the maintenance of the adult dependant at a rate, subject to regulation 11(1), not less than the standard amount of the increase and the earnings of the adult dependant in the week in respect of which the beneficiary is entitled to benefit under any provision specified in paragraph (3) do not exceed that amount.

(5) In determining, for the purposes of this regulation, the amount of earnings of a person having the care of a child no account shall be taken of any earnings of that person which are derived from employment by the beneficiary in caring for a child or children in respect of whom the beneficiary is entitled to child benefit.

(6) Where on 14th September 1985, a beneficiary was entitled to an increase of benefit for that day or for a period including that day under any of the provisions of the Act to which paragraph (1) or (3) applies the provisions of the Act and of these regulations relating to the reduction of the rate of such increase on account of the earnings of the adult dependant in force on that day shall, if more favourable to the beneficiary, continue to apply after that day, to the exclusion of the provisions of this regulation, until such time as the beneficiary first ceases to be entitled to that increase.

(7) In paragraphs (2) and (4) "week" where used in the expression "week in respect of which the beneficiary is entitled to benefit" means—

(*a*) in relation to Category A or C retirement pension the period of 7 days beginning with the day on which in accordance with the provisions of regulation 16(6) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(**a**) is the day for payment of the retirement pension in question; and

(**a**) S.R. 1977 No. 351; the relevant amending regulations are S.R. 1984 No. 123