1985 No. 91

SOCIAL SECURITY

The Supplementary Benefit (Requirements and Resources) (Miscellaneous Provisions) Regulations (Northern Ireland) 1985

Made	*19th April 1985*
Coming into operation . . .	*29th April 1985*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(2), 3(3), 4(1A) and (2) and 41(4) of, and paragraph 2(1), (3) and (4) of Schedule 1 to, the Supplementary Benefits (Northern Ireland) Order 1977(**a**) and of all other powers enabling it in that behalf, and with the consent of the Department of Finance and Personnel(**b**), hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Supplementary Benefit (Requirements and Resources) (Miscellaneous Provisions) Regulations (Northern Ireland) 1985 and shall come into operation on 29th April 1985.

(2) In these regulations "the Requirements Regulations" means the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983(**c**).

Amendment of the definition of "close relative" in the Requirements Regulations

2. For the definition of "close relative" in regulation 2(1) of the Requirements Regulations (interpretation) there shall be substituted the following definition—

" "close relative" means parent, son, daughter, step-parent, step-son, step-daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother, sister, brother-in-law or sister-in-law;".

Amendment of provisions as to boarders

3.—(1) Regulation 9 of the Requirements Regulations (modification of normal requirements of boarders) shall be amended as follows—

(*a*) for paragraph (6) there shall be substituted the following paragraph—

"(6) Subject to paragraphs (6A) and (13), the maximum amount in respect of the assessment unit as a whole referred to in paragraph (1)(*a*) shall be the aggregate of the following amounts—

(*a*) in respect of each member of the assessment unit who is a dependant aged less than 11, 1½ times the amount referred to in paragraph (5)(*c*); and

(*b*) in respect of each other member of the assessment unit, the appropriate amount specified in or, as the case may be, determined in accordance with Schedule 1A.";

(a) S.I. 1977/2156 (N.I. 27); *see* definitions of "prescribed" and "regulations" in Article 2(2); provisions of the Supplementary Benefits (Northern Ireland) Order 1977, as amended by Article 7 of, and Part I of Schedule 2 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)), are set out in Part II of that Schedule: Article 4(1A) was substituted by paragraph 11 of Schedule 1 to the Social Security Adjudications (Northern Ireland) Order 1983 (S.I. 1983/1524 (N.I. 17))

(b) Formerly the Department of Finance: *see* S.I. 1982/338 (N.I. 6), Article 3. *See* also Article 41(1) of the Supplementary Benefits (Northern Ireland) Order 1977, as amended by the Social Security (Northern Ireland) Order 1980

(c) S.R. 1983 No. 61; the relevant amending regulations are S.R. 1983 No. 215 and S.R. 1984 Nos. 348 and 446

(*b*) at the beginning of paragraph (6A) there shall be inserted "Subject to paragraph (13), where the accommodation provided for the claimant is accommodation to which paragraph 4 or 6 of Schedule 1A relates (hostels or ordinary board and lodging)";

(*c*) in paragraph (6A)(*c*) there shall be deleted heads (i), (ii) and (iv);

(*d*) in paragraph (6B) after "in paragraph (6)(*a*)" there shall be inserted "or a partner calculated in the manner referred to in paragraph 6(3) of Schedule 1A";

(*e*) in paragraph (9) for "The allowance for personal expenses referred to in paragraph (1)(*b*) shall be — " there shall be substituted "Subject to paragraph (13)(*e*), the allowance for personal expenses referred to in paragraph (1)(*b*) for any member of the assessment unit aged not less than 18 or a claimant or partner aged less than 18 but not less than 16, in a home for persons in need or a nursing home shall be £8·50, and in any other case that allowance shall be —";

(*f*) for paragraphs (11) and (12) there shall be substituted the following paragraph—

"(11) Notwithstanding paragraph (10), a person shall not be a boarder for the purposes of this regulation if he is a person to whom any paragraph of Schedule 1B applies.".

(*g*) after paragraph (12) there shall be added the following paragraph—

"(13)(*a*) Notwithstanding the provisions of paragraphs (6) to (11), sub-paragraphs (*b*) to (*g*) shall have effect where the claimant was in receipt of supplementary benefit as a boarder immediately before 29th April 1985, or would have been in receipt of such benefit but for the claimant's temporary absence from his accommodation in circumstances as set out in sub-paragraph (*h*) and, subject to sub-paragraph (*h*), continues after that date to be a boarder in the same accommodation; and for the purposes of this paragraph, a claimant to whom sub-paragraph (*b*), (*c*), (*d*) or (*e*) applies who changes his accommodation shall nevertheless be deemed to be in the same accommodation if the accommodation he moves to is a home for persons in need or a nursing home;

(*b*) where—

(i) the accommodation is a home for persons in need or a nursing home, and

(ii) the claimant or his partner had attained pensionable age on or before 29th April 1985,

the appropriate amount for the purposes of paragraph (6) shall be the weekly amount determined to be appropriate under paragraph (1)(*a*) prior to that date (hereafter in this paragraph referred to as "the protected amount") so long as the protected amount exceeds the amount that would otherwise be the appropriate amount under paragraph (6);

(*c*) where—

(i) the accommodation is a home for persons in need, a nursing home or a hostel, and

(ii) in the case of a home for persons in need or a nursing home, the claimant or his partner has not attained pensionable age on or before 29th April 1985,

the appropriate amount for the purposes of paragraph (6) shall, until the period ending on 28th April 1986, be the protected amount so long as the

protected amount exceeds the amount that would otherwise be the appropriate amount under paragraph (6), unless in any particular case or class of case the Department determines that such period shall be extended;

(*d*) where—

(i) the accommodation is a home for persons in need or a nursing home, and

(ii) the claimant is in receipt of attendance allowance which, by virtue of regulation 11(4A) of the Resources Regulations(**a**), does not fall to be disregarded, and

(iii) immediately prior to 29th April 1985 the claimant was able to meet out of resources disregarded under regulation 11(4)(*b*) of the Resources Regulations, in whole or in part, the balance of the actual charge for such accommodation over the maximum amount determined under paragraph (6), and

(iv) on or after 29th April 1985 there continues to be such a balance to be met,

the appropriate amount for the purposes of paragraph (6) shall be increased by such amount, not exceeding the amount of such balance as could be met out of those resources immediately prior to 29th April 1985, as will enable such balance to be met in whole or in part as aforesaid, provided that, in the case of a person who has not attained pensionable age on or before that date no such increase shall be made after 28th April 1986, unless in any particular case or class of case the Department determines that such increase shall be paid after 28th April 1986;

(*e*) where the accommodation is a home for persons in need or a nursing home, the allowance for personal expenses for the purposes of paragraph (9) shall be the amount of the allowance for personal expenses payable by virtue of that paragraph prior to 29th April 1985 so long as that amount exceeds the appropriate allowance specified in that paragraph;

(*f*) where the accommodation is accommodation to which paragraph 6 of Schedule 1A relates (ordinary board and lodging), the appropriate amount for the purposes of paragraph (6) during the specified periods referred to in heads (i) and (ii) shall be the protected amount so long as that protected amount exceeds the amount that would otherwise be the appropriate amount under paragraph (6); and for the purposes of this sub-paragraph the specified periods shall be—

(i) the period until 28th April 1986, in a case where the protected amount includes an increase under paragraph (6A); or

(ii) in any other case, a period ending 13 weeks after the adjudication officer's decision as to the claimant's entitlement to supplementary benefit following the coming into operation of the Supplementary Benefit (Requirements and Resources) (Miscellaneous Provisions) Regulations (Northern Ireland) 1985 (hereafter in this paragraph referred to as "the review decision");

(*g*) where the claimant is a person to whom paragraph 5 of Schedule 1B applies (persons under 26 who are available for employment), the period during which sub-paragraph (1) of that paragraph is not to have effect by virtue of sub-paragraph (2) of that paragraph shall be a period ending either 4 weeks or, as the case may be, 8 weeks after the review decision depending on whether the accommodation in question is in a board and

(a) Added by regulation 3(5) of these regulations

lodging area in relation to which the appropriate initial period for the purpose of that sub-paragraph (2) is respectively either a period of 4 weeks or, as the case may be, a period of more than 4 weeks;

(*h*) the provisions of this paragraph shall have effect notwithstanding the temporary absence of a person from—

(i) a hostel for not more than 13 weeks; or

(ii) a home for persons in need or a nursing home for not more than either 12 months in the case of a person who is of pensionable age or, for not more than 13 weeks in the case of a person who is under pensionable age; or

(iii) accommodation to which paragraph 6 of Schedule 1A relates (ordinary board and lodging) for not more than either 4 weeks or, in a case where the protected amount includes an increase under paragraph (6A), 13 weeks,

except, in the case of head (iii), where that person is a person to whom paragraph 5(2) of Schedule 1B applies (a boarder during an initial period).''.

(2) Regulation 10 of the Requirements Regulations (modification of normal requirements) shall be amended as follows—

(*a*) in paragraph (5) for ''In paragraph 1 of Schedule 2'' there shall be substituted ''For the purposes of paragraph 1 of Schedule 2 a person to whom paragraph (5A) applies shall not be treated as being in residential accommodation, but, save as aforesaid, in paragraph 1 of Schedule 2'';

(*b*) for sub-paragraph (*b*) of paragraph (5) there shall be substituted the following sub-paragraph—

''(*b*) in residential accommodation by the Department pursuant to Article 7 or 8 of the Health and Personal Social Services (Northern Ireland) Order 1972(**a**) (prevention of illness, care and after-care or care of mothers and young children) but in the case of such accommodation under the said Article 7 only where the accommodation is in premises registered under Article 35 of, and Schedule 5 to, that Order (registration of homes for persons in need) other than in premises which are used for the rehabilitation of alcoholics or drug addicts.'';

(*c*) after paragraph (5) there shall be inserted the following paragraph—

''(5A) For the purposes of paragraph (5) this paragraph applies to a person who is staying in a home for persons in need as defined in paragraph 7(1) of Schedule 1A provided under the provisions referred to in paragraph (5)(*b*) where the weekly cost of such accommodation exceeds the maximum amount provided for under regulation 9(6) in respect of such accommodation and where the Department accepts responsibility for the making of arrangements for the provision of such accommodation for that person in the light of that person being entitled to such maximum amount as a boarder under and by virtue of that regulation, provided that, in the case of a person over pensionable age the Department had accepted such responsibility for a period of not less than 2 years immediately before that person attained pensionable age.''.

(3) After Schedule 1 to the Requirements Regulations (normal requirements) there shall be inserted as Schedules 1A and 1B the Schedules set out in Schedules 1 and 2 respectively to these regulations.

(4) In Schedule 2 to the Requirements Regulations (modification of normal requirements in special cases) after paragraph 11 there shall be added the following paragraph—

(**a**) S.I. 1972/1265 (N.I. 14)

"Certain persons under 26 who are not treated as boarders		
12. Person aged under 26 but not less than 16 who is not a boarder by virtue of regulation 9(11) and paragraph 5(1) of Schedule 1B and who is— (*a*) a single claimant; (*b*) a relevant person.	12. Paragraphs 1 to 4 of the Table and paragraphs 1 and 2 of Schedule 1.	12. (*a*) The ordinary rate for non-householders under paragraph 1 or 2, as appropriate, of Schedule 1; (*b*) the ordinary rate for couples specified in paragraph A(*b*) of Schedule 1, together with, in the case of a claimant aged 21 or over, the amount specified in regulation 23(1) (non-householder's contribution).".

(5) Regulation 11 of the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984(**a**) (calculation of other income) shall be amended as follows—

(*a*) at the beginning of paragraph (4)(*b*) there shall be inserted "subject to paragraph (4A),";

(*b*) after paragraph (4) there shall be inserted the following paragraph—

"(4A) (*a*) Subject to the following sub-paragraphs, income resources to which paragraph (4)(*b*) applies which are paid or payable to a boarder in accommodation to which paragraph 1, 2 or 3 of Schedule 1A to the Requirements Regulations relates (homes for persons in need and nursing homes), shall not be disregarded;

(*b*) the amount of income resources not to be disregarded by virtue of this paragraph shall not exceed the amount of the higher rate of attendance allowance payable under section 35(3) of the Act;

(*c*) sub-paragraphs (*a*) and (*b*) shall not have effect before 29th July 1985 in the case of such a person who was in receipt of supplementary benefit immediately before 29th April 1985 or would have been in receipt of such benefit but for that person's temporary absence from his accommodation in circumstances as set out in regulation 9(13)(*h*)(ii) or (iii) of the Requirements Regulations(**b**).".

(**a**) S.R. 1984 No. 54, to which there are amendments not relevant to the subject matter of these regulations

(**b**) Added by regulation 3(1)(*g*) of these regulations