1984 No. 266

SOCIAL SECURITY

The Supplementary Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 1984

Made	*27th July 1984*
Coming into operation . . .	
Except for regulation 6(6), (11) and (12)	*6th August 1984*
Regulation 6(6), (11) and (12)	*26th November 1984*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(2) and (2A), 3(1B), 5, 6(1), 7, 8, 9, 13(2), 19(1) and (2)(*a*), (*c*), (*dd*), (*f*), (*g*), (*h*), (*i*) and (*k*) of, and paragraph 3 of Schedule 1 to, the Supplementary Benefits (Northern Ireland) Order 1977(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations which, except for regulation 4(5), correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and after agreement by the Social Security Advisory Committee that the proposals to make regulation 4(5) should not be referred to it, and which accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980(**b**) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

Citation and commencement

1. These regulations may be cited as the Supplementary Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 1984 and shall come into operation on 6th August 1984, except for regulation 6(6), (11) and (12) which shall come into operation on 26th November 1984.

Amendment of the Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1981

2.—(1) The Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1981(**c**) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 1(2) (interpretation) the definition of "relevant education" shall be omitted.

(3) In regulation 1A(1)(*b*) (circumstances in which the requirements and resources of one partner of a married or an unmarried couple are to be aggregated with and treated as those of the other) after head (xiii) there shall be inserted the following head—

(**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; the Order is further amended by Article 5 of the Social Security (Northern Ireland) Order 1981 (S.I. 1981/1118 (N.I. 25)), and Article 31 of, and paragraph 14 of Schedule 4 to, the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16))

(**b**) 1980 c. 30

(**c**) S.R. 1981 No. 373; the relevant amending regulations are S.R. 1983 Nos. 191 and 322

"(xiiiA) a person who would be entitled to be credited with National Insurance contributions under regulation 9A of the Social Security (Credits) Regulations (Northern Ireland) 1975(**a**), or".

(4) For regulation 2 there shall be substituted the following regulation—

"*Circumstances in which a married or unmarried couple are to be treated as being, or not being, members of the same household*

2.—(1) This regulation shall apply for the purposes of paragraph 3(1) of Schedule 1 to the Order (aggregation of requirements and resources of couples).

(2) Subject to paragraph (3), two persons who are a married or unmarried couple shall not be treated as having ceased to be members of the same household by reason of any temporary absence the one from the other.

(3) Where two persons are a married or unmarried couple and, before the occurrence of the circumstances to which this paragraph applies were members of the same household, and one of them—

(*a*) is living away from his partner in residential accommodation, including accommodation provided pursuant to Article 15 (general social welfare) or 36 (accommodation for persons in need in premises maintained by certain persons) of the Health and Personal Social Services (Northern Ireland) Order 1972(**b**), he shall continue to be treated as a member of the same household as his partner unless—

(i) his partner is not entitled to a pension or allowance but the couple have insufficient resources to pay the appropriate charges determined pursuant to Article 99 of that Order, or

(ii) in the opinion of an adjudication officer, his stay in that accommodation has become other than temporary;

(*b*) is a patient, he shall continue to be treated as a member of the same household as his partner unless either—

(i) he has been a patient for a continuous period of more than 2 years, or

(ii) in the opinion of an adjudication officer his stay in that hospital or similar institution has become other than temporary, or

(iii) he is a patient detained in accommodation provided under section 80 of the Mental Health Act (Northern Ireland) 1961(**c**);

(*c*) is absent from Northern Ireland while his partner remains in Northern Ireland, he shall continue to be treated as a member of the same household as his partner unless he has been absent for a continuous period of more than 4 weeks and—

(i) a claim was current at the time the absence began, and he is a claimant to whom regulation 3(1) or (3) of the Conditions of Entitlement Regulations (persons temporarily absent from Northern Ireland whose entitlement is to continue) applies, or

(ii) a claim was current at the time the absence began, and he was not the relevant person for the purposes of paragraph 2(3) of Schedule 1 to the Order, or

(iii) where neither head (i) nor (ii) is applicable and his partner is the person who satisfies the provisions of regulation 1A;

(**a**) S.R. 1975 No. 113; the relevant amending regulations are S.R. 1983 Nos. 76 and 348

(**b**) S.I. 1972/1265 (N.I. 14); as amended by Article 11 of the Health and Personal Social Services (Northern Ireland) Order 1978 (S.I. 1978/1907 (N.I. 26))

(**c**) 1961 c. 15 (N.I.)

(*d*) has come to Northern Ireland while his partner remains abroad, they shall not be treated as members of the same household for any period during which the partner remains abroad;

(*e*) is a prisoner for any period, he shall not be treated as a member of the same household as his partner for that period.''.

(5) In regulation 3(5) (circumstances in which a person is to be treated as being responsible for another person)—

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

''(*b*) is one to whom regulation 10(1)(*a*) of the Conditions of Entitlement Regulations would apply if he were aged less than 19;'';

(*b*) in sub-paragraph (*d*) for ''receiving relevant education, and'' there shall be substituted ''a person to whom regulation 10(1) of the Conditions of Entitlement Regulations applied; and'';

(*c*) in sub-paragraph (*e*) after ''circumstances in which persons'' there shall be inserted ''treated as''.

Amendment of the Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 1981

3.—(1) The Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 1981(**a**) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 5(2) (time for claiming pension or allowance)—

(*a*) in sub-paragraph (*a*) for the words from ''that period there was'' to the end there shall be substituted ''the period between the first day of that earlier period and the date on which the claim was made there was continuous good cause for failure to make the claim before the day on which it was made, on the first day of that earlier period'';

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

''(*bb*) where the claimant has made a claim for a housing benefit in accordance with regulation 26 of the Housing Benefits Regulations and his claim for a pension or allowance is made within one month of the date on which he was notified in accordance with regulation 45 of those regulations of the determination of his claim for a housing benefit, on the day on which his claim for a housing benefit in accordance with regulation 26 of those regulations was received by the appropriate authority;''.

(3) After regulation 5A there shall be inserted the following regulation—

''*Time for claiming a single payment*

5B. Where a claim for a single payment is made not more than 5 days, excluding any day on which a social security office of the Department is closed to the public for the receipt of claims, after the date on which the need for the item in question first arose it shall be treated as made on the date on which the need first arose but only where the need for that item had to be met immediately and it was not practicable for the claim to have been made before that need had to be met.''.

(4) In regulation 29 (travelling expenses in connection with claims)—

(*a*) in paragraph (1) after ''with paragraph (2)'' there shall be inserted ''but other than in a case to which sub-paragraph (*a*) applies, only where the matter in connection with which he has attended an office of the Department could not

(**a**) S.R. 1981 No. 368; the relevant amending regulations are S.R. 1982 No. 240 and S.R. 1983 Nos. 290 and 322

have been dealt with satisfactorily and more cheaply by post, telephone or other method";

(*b*) in paragraph (2)—

(i) in sub-paragraph (*b*)(i) after "is available" there shall be inserted "and the person is not prevented from using it by reason of physical disability",

(ii) after "claimant to the office," there shall be inserted "or it is necessary for any person to act as the claimant's interpreter, or as his companion where the claimant is unable to travel unaccompanied by reason of his being elderly, in poor health or disabled,";

(*c*) for paragraph (3) there shall be substituted the following paragraph—

"(3) Subject to paragraph (3A) the amount payable under this regulation shall be the amount calculated in accordance with paragraph (2) less 80 pence.";

(*d*) after paragraph (3) there shall be inserted the following paragraph—

"(3A) Where the claimant necessarily incurs travelling costs in attending an office of the Department—

(i) more than once in any one week, being the period from Monday to Sunday unless the Department decides otherwise,the amount payable in respect of each additional visit shall be the amount calculated in accordance with paragraph (2),or

(ii) when he is entitled to a pension or allowance by virtue only of the Urgent Cases Regulations, during any period in which regulation 5(3)(*a*) of those regulations or the first 14 days during which regulation 19(5) of those regulations applies to him the amount payable shall be the amount calculated in accordance with paragraph (2),

so however that where the amount payable under this regulation is less than 10 pence no amount shall be payable unless in any particular case the Department decides otherwise.".

Amendment of the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1981

4.—(1) The Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1981(**a**) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2 (interpretation) for the defintion of "student" there shall be substituted the following definition—

""student" means a person aged 19 or over but under pensionable age who is not a person to whom regulation 3(5) of the Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1981 applies and who is attending a course of full-time education, or a person aged less than 19 attending a course of advanced education within the meaning of regulation 1(2) of the Child Benefit (General) Regulations (Northern Ireland) 1979(**b**), but he shall not be deemed to be a student during periods when he is not attending his course and is not engaged in a programme of studies;".

(3) In regulation 10 (circumstances in which persons are to be treated as receiving relevant education)—

(*a*) in paragraph (1)—

(i) after "a person shall" there shall be inserted "only",

(**a**) S.R. 1981 No. 371; the relevant amending regulations are S.R. 1982 No. 240, S.R. 1983 No. 191 and S.R. 1984 No. 174

(**b**) S.R. 1979 No. 5; the relevant amending regulations are S.R. 1983 No. 4

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

"(*a*) for any period during which he is—

(i) receiving primary or secondary education otherwise than at a school under special arrangements made under Article 6(2) of the Education and Libraries (Northern Ireland) Order 1972 (**a**); or

(ii) attending a course of education other than a course of advanced education within the meaning of regulation 1(2) of the Child Benefit (General) Regulations (Northern Ireland) 1979 at a recognised educational establishment as defined in Article 2(2) of the Child Benefit (Northern Ireland) Order 1975(**b**), and in the pursuit of that course, the time spent in receiving instruction or tuition, undertaking supervised study, examination or practical work or taking part in any exercise, experiment or project for which provision is made in the curriculum of the course, exceeds 12 hours per week, so however that in calculating the time spent in pursuit of the course, no account shall be taken of the time occupied by meal breaks or spent on unsupervised study, whether undertaken on or off the premises of the educational establishment; or

(iii) to be treated as receiving full-time education not being advanced education within the meaning of regulation 1(2) of the Child Benefit (General) Regulations (Northern Ireland) 1979, by virtue of the provisions of regulation 6 of those regulations; or";

(*b*) in paragraph (1)(*b*) for the words from "receive full-time education" to "Article 4(1)(*b*)" there shall be substituted "be a person to whom sub-paragraph (*a*) applies";

(*c*) in paragraph (2)(*a*)(ii) for the words from "receive full-time education" to "Article 4(1)(*b*)" there shall be substituted "be a person to whom paragraph (1)(*a*) applies".

(4) For regulation 11 (circumstances in which persons receiving relevant education are to be entitled to supplementary benefit) there shall be substituted the following regulation—

"Circumstances in which persons treated as receiving relevant education are to be entitled to supplementary benefit

11. A claimant who is treated as receiving relevant education whose resources are insufficient to meet his requirements shall be entitled to supplementary benefit if he is a person to whom one or more of the following paragraphs apply—

(*a*) he is the parent of a child for whom he is responsible and who is a member of the same household;

(*b*) he is severely mentally or physically handicapped and by reason of that handicap would be unlikely, if he were available for employment and not treated as receiving relevant education, to obtain employment within the next 12 months;

(*c*) he has no parent and there is no person acting in the place of his parent;

(*d*) he is living away from and is estranged from his parents and any person acting in the place of his parents;

(*e*) either he—

(a) S.I. 1972/1263 (N.I. 12)
(b) S.I. 1975/1504 (N.I. 16)