1984 No. 54

SOCIAL SECURITY

The Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984

Made . . . . . *29th February 1984*

Coming into operation . . . *16th April 1984*

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SCHEDULE — Revocations

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 2 of, and paragraph 1(2) and (3) of Schedule 1 to the Supplementary Benefits (Northern Ireland) Order 1977(a) and of all other powers

(a) S.I. 1977/2156 (N.I. 27); *See* definitions of "prescribed" and "regulations" in Article 2. Schedule 1 was substituted by Article 7(1) and (3) of, and paragraph 29 of Schedule 2 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8))

enabling it in that behalf, and for the purpose only of consolidating regulations hereby revoked, and with the consent of the Department of Finance and Personnel(**a**), hereby makes the following regulations:

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984 and shall come into operation on 16th April 1984.

Interpretation

2.—(1) In these regulations—

"the Order" means the Supplementary Benefits (Northern Ireland) Order 1977;

"the Act" means the Social Security (Northern Ireland) Act 1975(**b**);

"the Taxes Act" means the Income and Corporation Taxes Act 1970(**c**);

"Aggregation Regulations" means the Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1981(**d**);

"allowance" means a supplementary allowance under Article 3(1)(*b*);

"assessment unit" means the claimant, and any partner and dependant of the claimant;

"benefit week" has the meaning assigned to it in regulation 7 of the Determination of Questions Regulations (date of commencement, change and termination of entitlement to pensions and allowances);

"boarder" has the meaning assigned to it in the Requirements Regulations;

"child benefit" means benefit under Part II of the Child Benefit (Northern Ireland) Order 1975(**e**);

"claimant" means a claimant for supplementary benefit and references to a claimant's resources include, where under the provisions of the Order the requirements and resources of any person fall to be aggregated with and treated as those of the claimant, the resources of that person;

"the Department" means the Department of Health and Social Services;

"dependant" means a person whose requirements and resources are by virtue of paragraph 3(2) of Schedule 1 aggregated with and treated as those of the claimant;

"Determination of Questions Regulations" means the Supplementary Benefit (Determination of Questions) Regulations (Northern Ireland) 1980(**f**);

(**a**) 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

(**b**) 1975 c. 15

(**c**) 1970 c. 10

(**d**) S.R. 1981 No. 373; as amended by S.R. 1983 Nos. 191 and 322

(**e**) S.I. 1975/1504 (N.I. 16)

(**f**) S.R. 1980 No. 423; as amended by S.R. 1981 No. 215, 1982 Nos. 240 and 295 and 1983 Nos. 191 and 290

"education authority" means a Northern Ireland department or a department of the Government of the United Kingdom, an Education and Library Board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1972(**a**), a local education authority as defined in section 114(1) of the Education Act 1944(**b**), an education authority as defined in section 135(1) of the Education (Scotland) Act 1980(**c**) and any body which is a research council for the purposes of the Science and Technology Act1965(**d**);

"family income supplement" means any supplement under the Family Income Supplements Act (Northern Ireland) 1971(**e**);

"home" means the accommodation, with any garage, garden and outbuildings, normally occupied by the assessment unit and any other members of the same household as their home and it includes also any premises and land not so occupied which it would be impracticable or unreasonable to expect to be sold separately;

"housing benefit" has the meaning assigned to it in regulation 2(3) of the Housing Benefits Regulations;

"Housing Benefits Regulations" means the Housing Benefits Regulations (Northern Ireland) 1983(**f**);

"liable relative" means a spouse or former spouse, or a parent of a dependant, including a person who has not been adjudged putative father of a child but by reason of payments which he is making to or in respect of that child may reasonably be treated as such a father, and includes a person liable to maintain a member of the assessment unit under Article 22(1)(*c*) (sponsored immigrants); and "payment made by or derived from a liable relative" shall be construed accordingly, except that a reference to such a payment shall not include a reference to a payment derived from the estate of a deceased liable relative or to a payment resulting from a disposition of property, whether voluntary or by order of the court as the case may be, made in or in connection with an agreement to separate or proceedings for a decree of divorce or judicial separation or for a decree of nullity;

"life policy" means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

"occupational pension scheme" means an occupational pension scheme within the meaning of the Social Security Pensions (Northern Ireland) Order 1975(**g**); and "occupational pension" means any pension or other periodical payment under such a scheme, except that any reference to an occupational pension shall not include a reference to—

(*a*) any element of that pension payable by way of compensation for injury, disease, disablement or death suffered by a person by reason of the service or employment in which he was engaged; or

(*b*) any discretionary payment out of a fund established for relieving hardship in particular cases;

"partner" means one of a married or unmarried couple;

"pension" means a supplementary pension under Article 3(1)(*a*);

(**a**) S.I. 1972/1263 (N.I. 12)
(**b**) 1944 c. 31
(**c**) 1980 c. 44
(**d**) 1965 c. 4
(**e**) 1971 c. 8 (N.I.)
(**f**) S.R. 1983 No. 292
(**g**) S.I. 1975/1503 (N.I. 15)

"person affected by a trade dispute" means a person whose requirements fall to be disregarded to any extent by virtue of Article 12;

"Requirements Regulations" means the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983(**a**);

"single parent" means a person who has a dependant and is not a partner;

"student" means a person under pensionable age who has ceased relevant education and is attending a course of full-time education, and he shall be deemed to be a student during any period when he is not in attendance but in respect of which he receives a grant or award from a Minister of the Crown or an education authority; and "disabled student" means a person who by reason of a disability would, in comparison with other students, be unlikely to be able to obtain employment within a reasonable period of time;

"war disablement pension" means—

(*a*) a pension or other benefit awarded—

(i) in respect of disablement due to service in the armed forces of the Crown being a pension or other benefit within the meaning of section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(**b**); or, as the case may be,

(ii) under the Personal Injuries (Emergency Provisions) Act 1939(**c**), the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(**d**) or the Polish Resettlement Act 1947(**e**);

(*b*) any retired pay or pension to which section 365(1) of the Taxes Act applies, not being retired pay, pension or allowance to which sub-paragraph (*a*) of this definition applies; or

(*c*) any payment which the Department accepts as being analogous to any such retired pay, pension or allowance as is referred to in the preceding sub-paragraphs of this definition.

(2) Except in so far as the context otherwise requires any reference in these regulations to a numbered Article or Schedule is to the Article of or Schedule to the Order bearing that number.

(3) These regulations shall be subject to Article 6 of the Social Security (No. 2) (Northern Ireland) Order 1980(**f**) (supplementary benefit in cases affected by trade disputes).

Calculation of resources

3.—(1) For the purposes of Schedule 1 resources for any period shall be calculated in the manner set out in these regulations.

(2) For the purposes of these regulations resources shall consist of capital resources and income resources, and in particular—

(*a*) any grant or gratuity paid under the Act shall be treated as a capital resource;

(*b*) any payment, including any instalment of a capital payment which falls to be paid by instalments, made, whether in pursuance of a court order or otherwise, by or derived from a liable relative, shall be treated in accordance with the provisions of regulation 13;

(**a**) S.R. 1983 No. 61, as amended by S.R. 1983 Nos. 115, 215, 247 and 291
(**b**) 1977 c. 5
(**c**) 1939 c. 82
(**d**) 1939 c. 83
(**e**) 1947 c. 19
(**f**) S.I. 1980/1087 (N.I. 13)

(*c*) any instalment of a capital payment (other than a payment to which sub-paragraph (*b*) applies) which falls to be paid by instalments shall be treated—

(i) in a case where, if the instalment were treated as a capital resource, the amount of the claimant's capital resources would not exceed the amount mentioned in regulation 7 unless the amount of the outstanding instalments were also treated as a capital resource, as an income resource,

(ii) in any other case, as a capital resource;

(*d*) any amount which becomes available to any member of the assessment unit by way of repayment of income tax which has been deducted from his emoluments in pursuance of section 204 of the Taxes Act (pay as you earn) shall be treated—

(i) where that member is not in receipt of regular earnings from employment because either he is a person affected by a trade dispute or to whom Article 13 (return to full-time employment following a trade dispute) applies or his employment has been temporarily suspended but not terminated, as an income resource only in the week in which it is received,

(ii) in any other case, as a capital resource;

(*e*) any other repayment of income tax shall be treated as an income resource (for the period to which regulation 9(2)(*a*) applies);

(*f*) any payment by way of an annual bounty to a member of any territorial or reserve force mentioned in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979(**a**) shall be treated as a capital resource;

(*g*) any arrears of housing benefit shall be treated as a capital resource, but any other payment in respect of housing benefit shall not be treated as a resource.

(3) Where a resource which falls to be taken into account in accordance with these regulations would otherwise include a fraction of a penny that fraction shall be disregarded.

Notional resources

4.—(1) Any resource of which a member of the assessment unit has deprived himself for the purpose of securing supplementary benefit, or increasing the amount of any such benefit, may be treated as if it were still possessed by him.

(2) Any resource which either—

(*a*) would become available to a member of the assessment unit upon application duly being made, but which has not been acquired by him; or

(*b*) is due to be paid to a member of the assessment unit but—

(i) has not been paid to him, and

(ii) is not a payment prescribed in regulation 3 or 5 of the Supplementary Benefit (Duplication and Overpayment) Regulations (Northern Ireland) 1980(**b**) (payments prescribed pursuant to paragraphs (1) and (2) of Article 16 — prevention of duplication of payments) and not made on or before the date prescribed in relation to it pursuant to paragraph (1) or (2) of Article 16,

(**a**) S.I. 1979/591; Part I of Schedule 3 substituted by S.I. 1980/1975

(**b**) S.R. 1980 No. 396 to which there are amendments not relevant to the subject matter of these regulations