1983 No. 322

SOCIAL SECURITY

The Supplementary Benefit (Equal Treatment) Regulations (Northern Ireland) 1983

Made . . . . . 18th October 1983

Coming into operation . . . 21st November 1983

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 3(1A), 4, 5 and 19(1) and (2) of, and paragraph 3(1) of Schedule 1 to, the Supplementary Benefits (Northern Ireland) Order 1977(**a**) and Article 9(1) of the Social Security (Northern Ireland) Order 1980(**b**) and of all other powers enabling it in that behalf, hereby makes the following regulations which correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and which accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980(**c**) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Supplementary Benefit (Equal Treatment) Regulations (Northern Ireland) 1983 and shall come into operation on 21st November 1983.

(2) In these regulations—

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

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

"Claims and Payments Regulations" means the Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 1981(**e**);

"allowance" means an allowance under Article 3(1)(*b*) of the Order;

"pension" means a pension under Article 3(1)(*a*) of the Order;

Date on which the amended versions of Article 3(1A) of, and paragraph 3(1) of Schedule 1 to, the Order are to take effect

2. The prescribed date for the purposes of Article 3(1A) of, and paragraph 3(1) of Schedule 1 to, the Order shall be 21st November 1983.

(**a**) S.I. 1977/2156 (N.I. 27), (other than Articles 1, 42 and Schedules 4 to 7) with certain amendments is set out in Part II of Schedule 2 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)); the Order is further amended by Article 6(5) of the Social Security (No. 2) (Northern Ireland) Order 1980 (S.I. 1980/1087 (N.I. 13)), Articles 4 and 5 of, and paragraphs 5 to 9 of the Schedule to, the Social Security (Northern Ireland) Order 1981 (S.I. 1981/1118 (N.I. 25)) and Articles 31 and 38 of, and paragraphs 14 to 16 in Part I of Schedule 4 to, the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16))

(**b**) S.I. 1980/870 (N.I. 8)

(**c**) 1980 c. 30

(**d**) S.R. 1981 No. 373 to which there is an amendment not relevant to the subject matter of these regulations

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

Amendment of the Aggregation Regulations

3.—(1) The Aggregation Regulations shall be amended in accordance with the provisions of this regulation.

(2) In regulation 1(2) (interpretation) there shall be inserted in the appropriate places the following definitions—

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

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

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

"relevant person" means a person whose requirements and resources include those of another person by virtue of paragraph 3(1) of Schedule 1 to the Order;

"social security office" includes any office or place appointed by the Department for the purpose of claiming unemployment benefit;

"unemployment benefit" means unemployment benefit under the Social Security (Northern Ireland) Act 1975(**a**);".

(3) Subject to regulation 5 of these regulations, the following regulation shall be inserted in the Aggregation Regulations after regulation 1—

"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

1A.—(1) Where two persons are a married or an unmarried couple their requirements and resources shall be aggregated and treated—

(*a*) if they are in receipt of benefit under the provisions of the Family Income Supplements Act (Northern Ireland) 1971(**b**) and only one of them was at the commencement of the award of family income supplement engaged and normally engaged in remunerative full-time work, as those of that partner;

(*b*) where sub-paragraph (*a*) does not apply to a couple, as those of whichever of them is over pensionable age and either—

(i) is in receipt of a Category A retirement pension under section 28 of the Social Security (Northern Ireland) Act 1975, or

(ii) has retired from full-time employment on or after reaching pensionable age or within 5 years before that age,

or as those of whichever of them has been, except for any periods not in aggregate exceeding 3 weeks, throughout the period of 6 months immediately preceding the claim—

(iii) engaged in remunerative employment for at least 8 hours a week,

(iv) available for employment within the meaning of section 17 of the Social Security (Northern Ireland) Act 1975 and either attending at a social security office to sign a declaration as to his unemployment and availability for employment or registered for employment by virtue of registering with the Department of Economic Development,

(v) without employment by reason of a stoppage of work which is due to a trade dispute at his place of employment,

(a) 1975 c. 15
(b) 1971 c. 8 (N.I.)

(vi) found to have been incapable of work for the purposes of one or more of the provisions of the Social Security (Northern Ireland) Act 1975 and the Social Security (Northern Ireland) Order 1982(**a**),

(vii) entitled to supplementary benefit but not required to be available for work by virtue only of regulation 6(*c*) of the Conditions of Entitlement Regulations,

(viii) entitled to supplementary benefit but not required to be available for work by virtue of one or more of the following provisions—

regulation 6(*a*), (*b*), (*h*) or (*hh*)(**b**) of the Conditions of Entitlement Regulations (person caring for a child, foster child, severely disabled person or others),

(ix) in receipt of invalid care allowance by virtue of section 37 of the Social Security (Northern Ireland) Act 1975,

(x) not entitled to benefit by virtue of Article 9(2) of the Order (person receiving relevant education) or regulation 8(1)(*a*) of the Conditions of Entitlement Regulations (person being a student except in certain cases),

(xi) in receipt of a training allowance within the meaning of regulation 2 of the Conditions of Entitlement Regulations or attending a course of training or instruction analogous to a course for which a training allowance would be payable,

(xii) a person whose requirements under the Order were nil by virtue of paragraph 6 of Schedule 2 to the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983(**c**) (person who is a prisoner),

(xiii) absent from the United Kingdom, or

(xiv) a person to whom any combination of the preceding conditions applied for that period.

(2) If, in any case where sub-paragraph (*a*) of paragraph (1) does not apply to a couple, sub-paragraph (*b*) of that paragraph applies to both partners or to neither partner, their requirements and resources shall be aggregated and treated—

(*a*) as those of whichever partner has been jointly nominated in writing as claimant; or

(*b*) where one partner has not been jointly nominated in accordance with sub-paragraph (*a*), as those of whichever partner the Department may in its discretion determine.

(3) Where a person's requirements and resources include those of his partner by virtue of paragraph (1)(*a*), or would do so if a claim for a pension or an allowance were made, and his partner satisfies any of the conditions of paragraph (1)(*b*), the couple may jointly elect in writing to have their requirements and resources aggregated and treated as those of that partner when the receipt of family income supplement comes to an end or, if the partner who is engaged and normally engaged in remunerative full-time work leaves or intends to leave that work on account of pregnancy, at any time not more than 15 weeks before the expected week of confinement.

(4) Where a person's requirements and resources include those of his partner other than by virtue of paragraph (1)(*a*) and either they are both aged not less than 60

(**a**) S.I. 1982/1084 (N.I. 16)
(**b**) This paragraph was inserted by the Supplementary Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 1983 (S.R. 1983 No. 191)
(**c**) S.R. 1983 No. 61 to which there are amendments not relevant to the subject matter of these regulations