1983 No. 291

SOCIAL SECURITY

The Supplementary Benefit (Housing Benefits) (Requirements and Resources) (Consequential Amendments) Regulations (Northern Ireland) 1983

Made . . . . . *22nd September 1983*

Coming into operation . . . . *21st November 1983*

The Department of Health and Social Services, in exercise of the powers conferred on it by paragraphs 1(2), 2(1), (3) and (4) of Schedule 1 to the Supplementary Benefits (Northern Ireland) Order 1977(**a**) and Article 8(1) of the Housing Benefits (Northern Ireland) Order 1983(**b**) and of all other powers enabling it in that behalf, and with the consent of the Department of Finance and Personnel(**c**), hereby makes the following regulations which satisfy the requirements of Article 7(7) of the Housing Benefits (Northern Ireland) Order 1983 and which accordingly are not subject to the requirement of section 10(1) of the Social Security Act 1980(**d**) for prior reference to the Social Security Advisory Committee:

Citation and commencement

1. These regulations may be cited as the Supplementary Benefit (Housing Benefits) (Requirements and Resources) (Consequential Amendments) Regulations (Northern Ireland) 1983 and shall come into operation on 21st November 1983.

Amendment of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983

2.—(1) The Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983(**e**) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2 (interpretation), in paragraph (1)—

(*a*) after the definition of ''available capital'' there shall be inserted the following definition—

> ''''benefit week'' has the meaning assigned to it by regulation 7(2) of the Supplementary Benefit (Determination of Questions) Regulations (Northern Ireland) 1980(**f**) (date of commencement, change and termination of entitlement);''; and

(*b*) after the definition of ''the home'' there shall be inserted the following definitions—

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

(**a**) S.I. 1977/2156 (N.I. 27); 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

(**b**) S.I. 1983/1121 (N.I. 14)

(**c**) 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

(**d**) 1980 c. 30

(**e**) S.R. 1983 No. 61; the relevant amending regulations are S.R. 1983 No. 115

(**f**) S.R. 1980 No. 423; the relevant amending regulations are S.R. 1981 No. 215, S.R. 1982 No. 295 and S.R. 1983 No. 290

"housing benefit expenditure" means expenditure of a kind for which housing benefit may be granted;

"Housing Benefits Order" means the Housing Benefits (Northern Ireland) Order 1983;

"Housing Benefits Regulations" means the Housing Benefits Regulations (Northern Ireland) 1983(a);",

and in the definition of "non-dependant" for "other than" there shall be substituted "including".

(3) In regulation 4(1) (the category of normal requirements) after "other than" there shall be inserted "housing benefit expenditure and".

(4) In regulation 5 (amounts applicable for normal requirements)—

(*a*) in paragraph (5)(*a*) for the words from "under Part IV" to "relates" there shall be substituted "is responsible for housing expenditure";

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

"(6) For the purpose of paragraph (5) a person is responsible for housing expenditure if, otherwise than by reason only of regulation 14(4A) or 19A, he is to be treated under sub-paragraph (*a*) of regulation 14(3) as responsible for expenditure but as if that sub-paragraph applied also to housing benefit expenditure (as well as to the items of housing requirements other than the non-householder's contribution).".

(5) In regulation 7 (long-term rates for normal requirements) there shall be added at the end the following paragraph—

"(8) Where a person—

(*a*) has, in respect of a period which includes the day preceding the appointed day, been entitled to an allowance not subject to the condition of availability but did not fully satisfy the condition in paragraph (1)(*b*);

(*b*) ceased to be entitled to an allowance because he or his partner became entitled to housing benefit on or after the appointed day;

(*c*) on the date on which he would, but for the reason in sub-paragraph (*b*), have satisfied the conditions in paragraph (1)(*b*), is, or his partner is, in receipt of housing benefit; and

(*d*) on that date would, if he were entitled to an allowance, not be subject to the condition in Article 7(1)(*a*),

he shall be treated as having satisfied that condition on that date; and in this paragraph "appointed day" means 21st November 1983.".

(6) In regulation 9(2) (boarders) for "Article 59 of the Rent (Northern Ireland) Order 1978(a)" there shall be substituted "the Housing Benefits Order".

(7) In regulation 12 (heating) in paragraph (2)—

(*a*) sub-paragraph (*c*)(ii) shall be omitted, and

(*b*) for sub-paragraphs (*g*) and (*h*) there shall be substituted the following sub-paragraphs—

"(*g*) no amount shall be applicable to a householder under any of paragraphs 1 to 3 or 5 to 7 where the home is occupied under a tenancy as a condition of which a charge, not subject to refund or surcharge, is payable in respect of heating, so however that where, in the opinion of the benefit officer, such charge provides for part only or none of the necessary heating of the home—

(a) S.R. 1983 No. 292

(i) amounts may be applicable under either paragraphs 1 and 2 or paragraph 3,

(ii) no amount shall be applicable under paragraph 5,

(iii) an amount may be applicable under one, but not both, of paragraphs 6 and 7,

(iv) amounts shall be applicable under only one of heads (i) and (iii);

(*h*) where an amount is applicable under paragraph 4A no amount shall be applicable under paragraphs 1 to 3 or 5 to 7;'';

and paragraph (3) of regulation 12 shall be omitted.

(8) In regulation 14 (housing requirements)—

(*a*) in paragraph (1)—

(i) sub-paragraphs (*a*) and (*f*) shall be omitted;

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

''(*h*) housing benefit supplement.'';

(*b*) in paragraph (2)(*a*) for the reference to ''regulations 15 to 20'' there shall be substituted a reference to ''regulations 16 to 19A'';

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

''(*a*) a person shall be treated as responsible for expenditure—

(i) for which he is liable, other than to a person who is a member of the same household,

(ii) which, because the person liable is not meeting it, he has to meet if he is to continue to live in the home and for which the benefit officer is satisfied that it is reasonable in the circumstances to treat him as responsible,

(iii) in relation to an amount applicable under paragraph (1) of regulation 17 by virtue of sub-paragraph (*a*) of that paragraph, where he is the person there specified (owner-occupiers),

(iv) which he in practice shares with one or more other members of the household, not being close relatives of his, at least one of whom either is responsible under one of the preceding heads of this sub-paragraph or has an equivalent responsibility for housing benefit expenditure and for which the benefit officer is satisfied that it is reasonable in the circumstances to treat him as sharing responsibility,

so however that a claimant shall be treated as responsible for any expenditure for which a dependant of his would otherwise be treated as responsible;'';

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

''(4A) For the purposes of this Part other than regulation 23 (non-householder's contribution)—

(*a*) a garage rented separately from the home shall be treated as part of the home provided that all reasonable efforts are being made to terminate the liability;

(*b*) where the assessment unit changes its home, ''the home'' shall include both the old and the new home—

(i) for a period of overlap not exceeding 4 weeks where the overlap of liability is unavoidable; or

(ii) where this is reasonable because the old home was left through fear of domestic violence.

(4B) No amount shall be applicable under regulations 16 to 19 in respect of housing benefit expenditure.''.

(9) Regulation 15 (rent) shall be omitted.

(10) In regulation 17(1) (maintenance and insurance)—

(*a*) in sub-paragraph (*a*) there shall be added at the end ''including a person who occupies the home under a rental purchase agreement, that is to say where the home is being acquired through payments for a fixed period of rent which includes a capital element attributable to the landlord's interest in the home.'';

(*b*) sub-paragraph (*b*) shall be omitted.

(11) For regulation 19 there shall be substituted the following regulations—

''*Miscellaneous outgoings*

19. The amounts, calculated on a weekly basis, of the following outgoings payable in respect of the home shall be applicable under this regulation—

(*a*) recurring charges for the emptying of cess-pits and septic tanks and the cost of fluid and materials to service a chemical toilet;

(*b*) service charges (for example for maintenance, insurance, management and the cleaning of common areas) but subject to deduction, where the charges provide for any item which is identified in regulation 4(1) (meaning of normal requirements), of the amount which, in the opinion of the benefit officer, is attributable to that item, and excluding any amount which is not housing benefit expenditure by virtue of paragraph 8 of Schedule 3 to the Housing Benefits Regulations (deductions for services other than charges for fuel);

(*c*) ground rent;

(*d*) land purchase annuity;

(*e*) outgoings analogous to those mentioned in this Part.

Housing benefit supplement

19A.—(1) Subject to paragraphs (3) and (4) where—

(*a*) the resources of the assessment unit are sufficient to meet its requirements as determined apart from this regulation; and

(*b*) a member of the assessment unit has been granted one or more housing benefits other than under regulation 9 of the Housing Benefits Regulations (certificated cases) or would have been so granted but for regulation 20(1) of those regulations (minimum amount of housing benefit),

there shall be applicable to the claimant an amount (''housing benefit supplement'') determined in accordance with paragraph (2).

(2) The amount referred to in paragraph (1) shall be the difference, calculated on a weekly basis, between—

(*a*) the aggregate amount of any eligible rates and eligible rent as ascertained for the purposes of the Housing Benefits Regulations less the amount of any deductions made under regulation 18 of those regulations (deductions for non-dependants); and

(*b*) the actual amount of the housing benefit entitlement.

(3) The amount applicable under paragraphs (1) and (2) shall be increased in the circumstances mentioned in sub-paragraph (*b*) of regulation 22(5) by the amount of any deduction made under regulation 18 of the Housing Benefits Regulations.

(4) Where—

(*a*) for the purposes of ascertaining eligible rent under the Housing Benefits Regulations an amount has been deducted under paragraph 2 of Schedule 3 to those regulations in respect of a charge for an item of fuel; and

(*b*) if any of paragraphs 3 to 5 of that Schedule had applied, the deduction made in respect of that item would have been of a lesser amount,

for the purposes of paragraph (2)(*a*) there shall be added to the eligible rent the difference between the amounts mentioned in sub-paragraphs (*a*) and (*b*) of this paragraph.

(5) No amount shall be applicable under this regulation where any member of the assessment unit is a person to whom Article 12 or 13 (persons affected by, or returning to full-time employment following, trade disputes) applies.''.

(12) In regulation 20 (special cases)—

(*a*) paragraphs (1) to (5) shall be omitted; and

(*b*) in paragraph (6)—

(i) for sub-paragraph (*c*) there shall be substituted the following sub-paragraph—

''(*c*) in consequence of the acquisition the aggregate of any amounts which would, but for this paragraph, be applicable under regulations 16, 17 and 19 exceeds the amount of the eligible rent for the purposes of regulation 16 of the Housing Benefits Regulations immediately before the acquisition;'',

(ii) for ''restricted to that applicable'' there shall be substituted ''restricted to the amount of the eligible rent''.

(13) In regulation 21 (restriction where amounts excessive)—

(*a*) in paragraph (1) for the reference to ''regulations 15 to 20'' there shall be substituted a reference to ''regulations 16 to 19'';

(*b*) for paragraph (2) there shall be substituted the following paragraph—

''(2) Subject to paragraphs (3) and (4), the amounts so applicable shall be regarded as excessive and shall be restricted, and the excess not allowed, if and to the extent that the home, excluding any part which is let or is normally occupied by boarders, is unnecessarily large for the assessment unit and any other non-dependants or is located in an unnecessarily expensive area.''.

(14) In regulation 22 (reduction in amounts applicable for certain occupants of the home)—

(*a*) in paragraph (1) for the reference to ''regulations 15 to 20'' there shall be substituted ''regulations 16 to 19'';

(*b*) in paragraph (2) in sub-paragraph (*a*), heads (i) and (ii) shall be omitted and in head (iii) the words from ''£0·35'' to ''additionally'' shall be omitted and sub-paragraph (*b*) shall be omitted;

(*c*) in paragraph (4) for sub-paragraphs (*c*) and (*d*) there shall be substituted the following sub-paragraphs—

''(c) in respect of a non-dependant who is not in receipt of pension or allowance in respect of whom the conditions specified in paragraph (6) are not fulfilled—

(i) where he is aged 18 or more but under 21, £3·95,

(ii) where he is aged 21 or more but is under pensionable age, £4·70,

(iii) where he is of pensionable age, £2·20;