1983 No. 215

SOCIAL SECURITY

The Supplementary Benefit (Requirements, Resources and Single Payments) (Amendment) Regulations (Northern Ireland) 1983

Made	*5th August 1983*
Coming into operation	
Except for regulations	*15th August 1983*
2(2)(*a*), (4)(*a*), (*b*) and (*c*), (6), (7), (10), (12)(*a*) and (14)(*b*), 3(2)(*b*) and (4) in so far as it adds a sub-paragraph (*j*), 4 and 5	
Regulations 2(2)(*a*) (4)(*a*), (*b*) and (*c*), (6), (7), (10), (12)(*a*) and (14)(*b*), 3(2)(*b*) and (4) in so far as it adds a sub-paragraph (*j*), 4 and 5	*21st November 1983*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 5(1) of; and paragraphs 1(2) and 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 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 and commencement

1. These regulations may be cited as the Supplementary Benefit (Requirements, Resources and Single Payments) (Amendment) Regulations (Northern Ireland) 1983 and shall come into operation on 15th August 1983 except for regulations 2(2)(*a*), (4)(*a*), (*b*) and (*c*), (6), (7), (10), (12)(*a*) and (14)(*b*), 3(2)(*b*) and (4) in so far as it adds a sub-paragraph (*j*), 4 and 5, which shall come into operation on 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) 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) 1980 c. 30

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

2.—(1) Subject to regulation 5 the Supplementary Benefit (Requirements) Regulations (Northern Ireland)1983(**a**) shall be amended in accordance with the following provisions.

(2) In regulation 2(1) (interpretation) there shall be inserted—

(*a*) after the definition of "prisoner" the following definition—

"'"qualifying benefit" means any of the following, namely invalidity benefit or non-contributory invalidity pension under Part II of the Act, unemployability supplement (increase of industrial injuries disablement pension) under section 58 of the Act or an allowance in respect of unemployability under Article 18 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(**b**);" and

(*b*) after the definition of "single claimant" the following definition—

"'"student" means a person under pensionable age who has ceased relevant education and who during a course of full-time education is either attending that course or is on vacation for any period constituting a normal vacation from it;".

(3) In regulation 5(5) (meaning of householder) for sub-paragraph (*c*) there shall be substituted the following sub-paragraph—

"(*c*) is either not absent from the home or if absent is absent only—

(i) otherwise than as a student on normal vacation, and

(ii) for a period which has not yet continued for more than 13 weeks.".

(4) In regulation 7 (conditions for long-term rates of normal requirements)—

(*a*) in paragraph (1)(*a*) after "condition of availability" there shall be inserted "or is eligible for an allowance while the partner of a person aged not less than 60",

(*b*) in paragraph (1)(*b*) for "if he is a person aged less than 60" there shall be substituted "unless he is a person aged not less than 60 or is the partner of such a person",

(*c*) for sub-paragraph (*a*) of paragraph (2) there shall be substituted the following sub-paragraph—

"(*a*) any period in respect of which he was in receipt of a qualifying benefit;", and

(*d*) for sub-paragraph (*d*) of paragraph (2) there shall be substituted the following sub-paragraph—

"(*d*) any other period of 8 weeks or less (or of 13 weeks or less in the case of a period ending before 15th August 1983) in respect of which he was not in receipt of an allowance not subject to the condition of availability and which fell immediately between periods—

(i) in respect of which he was in receipt of an allowance not subject to the condition of availability, or

(ii) to which sub-paragraph (*a*) or (*c*) applies.".

(5) In regulation 8(3) (modification of normal requirements in certain cases of unemployment benefit disqualification) for sub-paragraph (*b*) there shall be substituted the following sub-paragraph—

"(*b*) any member of the assessment unit is either pregnant or seriously ill,".

(**a**) S.R. 1983 No. 61; the relevant amending regulations are S.R. 1983 No. 115
(**b**) S.I. 1983/883

(6) In regulation 9(1)(*a*) (boarders) for the words from "except where" to "paragraph (6)" there shall be substituted "subject to paragraph (7) shall not exceed the maximum amount in respect of the assessment unit as a whole referred to in paragraph (6)".

(7) For paragraphs (6) and (7) of regulation 9 there shall be substituted the following paragraphs—

"(6) Subject to paragraph (6A) the maximum amount in respect of the assessment unit as a whole referred to in paragraph (1)(*a*) shall be—

(*a*) in respect of any dependant aged less than 11, 1½ times the amount referred to in paragraph (5)(*c*), and

(*b*) in respect of any member of the assessment unit other than a dependant to whom sub-paragraph (*a*) applies, the amount estimated by a benefit officer as representing the reasonable weekly charge for the relevant area for full board and lodging (inclusive of all meals) which is available in that area or, if the level of charges there is unusually high, in an adjoining area, and which is of a standard suitable for claimants resident in the type of accommodation which is provided either—

(i) in a nursing home as defined in section 10(1) of the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971(a) or a private hospital within the meaning of Part IV of the Mental Health Act (Northern Ireland) 1961(b), or

(ii) in a home registered in accordance with Schedule 5 to the Health and Personal Social Services (Northern Ireland) Order 1972(c) (registration of homes for persons in need), or

(iii) in any other type of accommodation,

whichever may be appropriate to the accommodation provided in respect of the claimant in that assessment unit save that, in respect of persons referred to in paragraph (6A) (*c*) (v) or (vi), the amount shall be the amount in respect of accommodation specified under head (iii) hereof.

(6A) The maximum amount specified in paragraph (6) shall be increased by any excess of the actual charge over that maximum up to £15.35, or if the increase is payable under sub-paragraph (*a*) or (*c*) of this paragraph and the claimant is a relevant person up to £30.70, in the case of—

(*a*) a claimant who has attained pensionable age or a relevant person or his partner either of whom is aged 65 or over, or

(*b*) a claimant or any other member of the assessment unit who is infirm by reason of physical or mental disability, or

(*c*) a claimant in respect of whom or of whose accommodation one or more of the following conditions are satisfied namely that—

(i) he is a person in respect of whom the Department has power to make arrangements pursuant to Article 36(1)(*a*) of the Health and Personal Social Services (Northern Ireland) Order 1972 (provision of accommodation in premises registered in accordance with Schedule 5 to that Order) but has declined to exercise that power,

(ii) the accommodation is provided in a nursing home as defined in section 10(1) of the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971 or a private hospital within the meaning of Part IV of the Mental Health Act (Northern Ireland) 1961 where the Department has

(a) 1971 c. 32 (N.I.)
(b) 1961 c. 15 (N.I.)
(c) S.I. 1972/1265 (N.I. 14)

power pursuant to Article 71(1) of the Health and Personal Social Services (Northern Ireland) Order 1972 (arrangements with and assistance to voluntary organisations) to make contractual arrangements for the provision of accommodation but has declined to exercise that power,

(iii) he is a person in respect of whom the Department has power to provide residential accommodation pursuant to Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1972 (care of mothers and young children) but has declined to exercise that power,

(iv) he is a person—

(*aa*) in respect of whom the Department has power to provide residential accommodation pursuant to Article 7 of the Health and Personal Social Services (Northern Ireland) Order 1972 (prevention of illness, care and after-care) but has declined to exercise that power, and

(*bb*) whose accommodation is in premises registered in accordance with Schedule 5 to the Health and Personal Social Services (Northern Ireland) Order 1972 (registration of homes for persons in need),

(v) he is a person suffering from a mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961 in respect of whom the Department has, pursuant to Article 7 or 36(1)(*b*) or (*c*) of the Health and Personal Social Services (Northern Ireland) Order 1972 (prevention of illness, care and after-care), made arrangements for the provision of residential accommodation in a private household or premises which are not required to be registered in accordance with Schedule 5 to that Order,

(vi) he is a person who is resident in premises which are used for the rehabilitation of alcoholics or drug addicts,

so, however, that only one increase shall be applicable under this paragraph in respect of any member of the assessment unit and the amount payable by virtue of this paragraph in respect of a claimant and his partner shall not exceed £30.70 and, if any member of the assessment unit who is a boarder is receiving attendance allowance under section 35 of the Act, an increase of disablement pension under section 61 of the Act, constant attendance allowance by virtue of Article 14 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983, or constant attendance allowance by virtue of Article 14 of the Personal Injuries (Civilians) Scheme 1983(a), an increase shall only be payable to the extent that the excess of the actual charge over the maximum amount is more than the amount of whichever of the aforementioned allowances on increase of pension is in payment up to a maximum of the higher rate of attendance allowance specified in Schedule 4 to the Act.

(6B) The maximum amount applicable in respect of a dependant aged less than 11 calculated in the manner referred to in paragraph (6)(*a*) shall be rounded to the nearest multiple of 5p by treating an odd amount of 2.5p or more as 5p and by disregarding an odd amount of less than 2.5p.

(7) This paragraph shall apply for a period not exceeding 13 weeks to a claimant who has lived in the same accommodation for more than 12 months and who could afford the charges in respect of that accommodation when he took up residence, if, having regard to the availability of and level of charges for board

(a) S.I. 1983/686

and lodging accommodation and to the circumstances mentioned in regulation 21(5)(*b*), this is reasonable to allow him time to find alternative accommodation, and in such a case paragraph (6) shall not apply except to the extent that he is able to meet the balance of the actual charge over the maximum amount out of income which is disregarded for the purposes of the Resources Regulations.''.

(8) In regulation 9(10) there shall be inserted at the beginning ''Subject to paragraph (11),'' and there shall be deleted the words from ''but excluding'' to the end of the paragraph.

(9) In regulation 9 there shall be added after paragraph (10) the following paragraphs—

''(11) There shall be excluded from the definition of ''boarder'' in paragraph (10) any person—

(*a*) whose accommodation and meals (if any) are provided by a close relative or other than on a commercial basis, or

(*b*) who is in the opinion of the benefit officer on holiday and during a period which has not yet continued for more than 13 weeks is absent from the home or from a hospital or similar institution in which he is normally a patient, or

(*c*) who is aged under 19 but not less than 16 who is in the care of the Department under the provisions of a relevant enactment, except such a person who is personally liable to pay the cost of his accommodation and maintenance direct to someone other than the Department.

(12) In this regulation ''a relevant enactment'' means the Children and Young Persons Act (Northern Ireland) 1968(**a**), the Matrimonial Causes (Northern Ireland) Order 1978(**b**) or the Domestic Proceedings (Northern Ireland) Order 1980(**c**).''.

(10) In regulation 10(5) (modification of normal requirements in special cases) in sub-paragraph (*a*) after ''the Health and Personal Social Services (Northern Ireland) Order 1972'' and in sub-paragraph (*b*) after ''(registration of homes for persons in need)'' there shall be inserted ''other than in premises which are used for the rehabilitation of alcoholics or drug addicts'', and in sub-paragraph (*b*) for the reference to regulation 9(6)(*d*) there shall be substituted a reference to regulation 9(6A)(*c*).

(11) In regulation 13(6) (additional requirements for items other than heating) for ''and 17'' there shall be substituted '', 17 and 17A''.

(12) In regulation 14 (housing requirements)—

(*a*) in paragraph (3)(*b*) the words from ''but'' to the end shall be omitted, and

(*b*) in paragraph (4) '', as defined in the Resources Regulations,'' shall be deleted and before ''vacation'' there shall be inserted ''normal''.

(13) In regulation 20 (special cases) in paragraph (6) (*a*) before ''the home'' there shall be inserted ''the landlord is the Northern Ireland Housing Executive or''.

(14) In Schedule 2 (modification of normal requirements in special cases)—

(*a*) in column (3) of paragraph 2 for ''the long-term rate for householders'' where it first appears there shall be substituted ''the higher of the two sums for the time being specified in Article 8(1)(*a*) of the Social Security Pensions

(a) 1968 c. 34 (N.I.)
(b) S.I. 1978/1045 (N.I. 15)
(c) S.I. 1980/563 (N.I. 5)