**1983 No. 191**

## SOCIAL SECURITY

### The Supplementary Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 1983

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| *Made* . . . . . | *19th July 1983* |
| *Coming into operation* . . . | *15th August 1983* |

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(2A), 3(1B), 4(1A), 5, 6(1), 7, 9(1), 13(2), 19(1), (2) and (2A) and 25(4) of the Supplementary Benefits (Northern Ireland) Order 1977(**a**) 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(**b**) 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 (Miscellaneous Amendments) Regulations (Northern Ireland) 1983 and shall come into operation on 15th August 1983.

(2) In these regulations—

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

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

"Conditions of Entitlement Regulations" means the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1981(**e**);

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

"Duplication and Overpayment Regulations" means the Supplementary Benefit (Duplication and Overpayment) Regulations (Northern Ireland) 1980(**g**);

"Single Payments Regulations" means the Supplementary Benefit (Single Payments) Regulations (Northern Ireland) 1981(**h**);

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(**a**) S.I. 1977/2156 (N.I. 27): 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)) (and set out in Part II of that Schedule), Article 5 of the Social Security (Northern Ireland) Order 1981 (S.I. 1981/1118 (N.I. 25)) and Articles 31 and 38 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

(**d**) S.R. 1981 No. 368; the relevant amending regulations are S.R. 1982 No. 240

(**e**) S.R. 1981 No. 371; the relevant amending regulations are S.R. 1982 Nos. 240 and 295

(**f**) S.R. 1980 No. 423; the relevant amending regulations are S.R. 1981 No. 215 and S.R. 1982 Nos. 240 and 295

(**g**) S.R. 1980 No. 396; the relevant amending regulations are S.R. 1981 No. 215

(**h**) S.R. 1981 No. 369; the relevant amending regulations are S.R. 1982 No. 240

"Trade Disputes Regulations" means the Supplementary Benefit (Trade Disputes and Recovery from Earnings) Regulations (Northern Ireland) 1980(**a**);

"Urgent Cases Regulations" means the Supplementary Benefit (Urgent Cases) Regulations (Northern Ireland) 1981(**b**).

*Amendment of the Aggregation Regulations*

**2.** In regulation 2(3)(*c*) of the Aggregation Regulations (circumstances in which married couples are to be treated as being, or not being, members of the same household), for head (i) there shall be substituted the following head—

"(i) 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".

*Amendment of the Claims and Payments Regulations*

**3.** In regulation 3(1) of the Claims and Payments Regulations (manner in which claims are to be made), before "Every claim for benefit" there shall be inserted "Subject to the following provisions of this regulation,".

*Amendment of the Conditions of Entitlement Regulations*

**4.**—(1) This regulation shall amend the Conditions of Entitlement Regulations.

(2) In regulation 3 (persons temporarily absent from Northern Ireland whose entitlement is to continue)—

(*a*) in paragraph (1)—

(i) before "Where a claimant" there shall be inserted "Subject to paragraph (4),",

(ii) after "Northern Ireland" where it first appears, there shall be inserted "other than in Great Britain",

(iii) for "not exceeding" there shall be substituted "not extending beyond";

(*b*) the following paragraphs shall be added at the end—

"(3) Subject to paragraph (4), a claimant who—

(*a*) is temporarily absent from Northern Ireland in Great Britain;

(*b*) was entitled to a pension or, as the case may be, an allowance for the period immediately preceding that temporary absence; and

(*c*) satisfies the conditions of entitlement for such a pension or allowance other than the requirement to be in Northern Ireland,

shall be entitled to a pension or allowance during his absence from Northern Ireland, so long as he remains in Great Britain, for a period not extending beyond the end of the fourth benefit week which falls within that period of temporary absence.

(4) A person's entitlement to benefit by virtue of paragraph (1) or paragraph (3) or any combination thereof shall not exceed the maximum period of entitlement under either one of them alone.".

(3) In regulation 6 (persons not subject to condition of registration and availability for employment), after paragraph (*h*) there shall be inserted the following paragraph—

"(*hh*) he is caring for a member of the assessment unit who is temporarily ill where there are no alternative means of caring for that person;".

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(**a**) S.R. 1980 No. 417; the relevant amending regulations are S.R. 1982 No. 240
(**b**) S.R. 1981 No. 372; the relevant amending regulations are S.R. 1982 No. 240

(4) In regulation 7 (circumstances in which persons are to be treated as available for employment)—

(*a*) in paragraph (3)(*a*), after "falling" there shall be inserted "after the terminal date and" and after "qualifying benefit" there shall be inserted "or on a course of training or instruction organised by or on behalf of the Department of Economic Development as part of the Youth Training Programme";

(*b*) in paragraph (3)(*b*)—

(i) after "falling" there shall be inserted "after the terminal date and",

(ii) in head (i) after "qualifying benefit" there shall be inserted "or on a course of training or instruction organised by or on behalf of the Department of Economic Development as part of the Youth Training Programme",

(iii) for head (ii) there shall be substituted the following head—

"(ii) after the first period referred to in head (i), throughout the remainder of the 6 months for which head (i) did not apply to him, he was engaged in appropriate work.";

(*c*) in paragraph (4), after sub-paragraph (*b*) there shall be inserted the following sub-paragraph—

"(*bb*) "terminal date" in respect of a claimant has the same meaning as in regulation 10;".

(5) In regulation 8 (circumstances in which persons are not to be treated as available for employment)—

(*a*) in paragraph (1), for sub-paragraph (*g*) there shall be substituted the following sub-paragraph—

"(*g*) he has been disallowed unemployment benefit under the Act on the ground that he failed to claim in the manner prescribed by regulation 4 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(**a**) by virtue of the fact that the form approved by the Department for the purpose of claiming was not duly completed so far as it related to his availability for employment.";

(*b*) in paragraph (2)(*e*), for "fails to furnish the information" there shall be substituted "fails to claim in the manner".

(6) In regulation 9(3) (circumstances in which persons are to be treated as engaged in remunerative full-time work), after sub-paragraph (*a*) there shall be inserted the following sub-paragraph—

"(*aa*) a payment of bonus or commission by way of earnings to which paragraph (1)(*b*) applies, in respect of the same period as other earnings which are paid on a different day, that payment of bonus or commission shall be treated as earnings for the same period as those other earnings;".

*Amendment of the Determination of Questions Regulations*

**5.**—(1) This regulation shall amend the Determination of Questions Regulations.

(2) In regulation 5 (reference of questions)—

(*a*) in paragraph (2), for the words from "that question shall forthwith" to the end, there shall be substituted the following—

"that question shall either—

(*c*) be referred forthwith for decision to an insurance officer appointed in pursuance of section 97(1) of the Act; or

(**a**) S.R. 1977 No. 351; the relevant amending regulations are S.R. 1982 No. 302

(*d*) if the benefit officer or, as the case may be, the Appeal Tribunal is of the opinion that the question can be determined on the basis of a decision given or about to be given by a statutory authority in relation to a claim or an award under the Act or the Child Benefit (Northern Ireland) Order 1975(**a**), be determined by the benefit officer or the Appeal Tribunal itself in accordance with the provisions of this regulation.'';

(*b*) after paragraph (2) there shall be inserted the following paragraph—

''(2A) Where the benefit officer or the Appeal Tribunal determines a question under paragraph (2) on the basis of a decision by a statutory authority in relation to a claim or an award under the Act or the Child Benefit (Northern Ireland) Order 1975, that question shall be determined in accordance with that decision which shall be conclusive for the purposes of the provisions of the Order and regulations made under it.'';

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

''(4A) Where the benefit officer or, as the case may be, the Appeal Tribunal is of the opinion that a question can be determined by him or it under paragraph (2) on the basis of a decision which is about to be given by a statutory authority, the benefit officer or the Appeal Tribunal shall (subject to the provisions of regulation 4(6)(*b*) as to review) determine the claimant's supplementary benefit entitlement pending the statutory authority's decision on the assumption that the decision will be adverse to him.'';

(*d*) there shall be added, at the end, the following paragraph—

''(7) In this regulation ''statutory authority'' means, as the case may require, an insurance officer, a local tribunal or a Commissioner by whom the relevant question falls to be determined under Part III of the Act or Part II of the Child Benefit (Northern Ireland) Order 1975.''.

(3) For regulation 7A (interim payments on account of supplementary benefit), there shall be substituted the following regulation—

''*Interim payments on account of supplementary benefit*

**7A.**—(1) Interim payments (that is to say payments made otherwise than in accordance with the Order under arrangements made by the Department with the consent of the Department of Finance and Personnel pending the determination, whether in the first instance or on an appeal or reference and whether originally or on review, of any claim for supplementary benefit) shall, subject to the following provisions of this regulation, be deemed to be payments of supplementary benefit duly made.

(2) When a claim for supplementary benefit in connection with which an interim payment has been made is determined by a determining authority—

(*a*) if that authority decides that nothing was properly payable by way of supplementary benefit or decides that the amount properly so payable was less than the amount of the interim payment, it may, if appropriate, direct that the whole or part of the interim payment be treated as paid on account of supplementary benefit which is or was properly payable or on account of any benefit under the Act, but subject as aforesaid it shall direct repayment of the overpayment; and

(*b*) if that authority decides that the amount properly payable by way of supplementary benefit equals or exceeds the amount of the interim payment, it shall treat that payment as paid on account of the supplementary benefit properly so payable.

(a) S.I. 1975/1504 (N.I. 16)

(3) Unless before an interim payment has been made to a person he, or any person acting for him, has been informed of the effect of sub-paragraph (*a*) of paragraph (2) as it relates to repayment of an overpayment, repayment of an overpayment shall not be required except where the determining authority is satisfied that in the obtaining and receipt of the interim payment he, or any person acting for him, has, whether fraudulently or otherwise, misrepresented or failed to disclose any material fact.

(4) An overpayment required to be repaid under the provisions of this regulation shall, without prejudice to any other method of recovery, be recoverable by deduction from any supplementary benefit or benefit under the Act then or thereafter payable to the person by whom it is to be repaid or any persons entitled to receive his benefit on his death.''.

(4) In regulation 8 (suspension of payment), the existing regulation shall be numbered paragraph (1) and the following paragraph added at the end—

''(2) Where it appears to the Department that a question has arisen whether any amount paid or payable to a person by way of supplementary benefit is recoverable by the Department under Article 25 by deduction from prescribed benefits or otherwise, it may direct that any payment of arrears of supplementary benefit to that person shall be suspended, in whole or in part, pending determination of that question under Article 25 or otherwise.''.

*Amendment of the Duplication and Overpayment Regulations*

**6.** In regulation 7(1) of the Duplication and Overpayment Regulations (recovery of overpayments from supplementary benefit), for ''Regulation 6 shall apply to supplementary pension or allowance'' there shall be substituted ''Regulation 6 shall apply without limitation to any payment of arrears of supplementary pension or allowance other than any arrears caused by the operation of regulation 8(1) of the Supplementary Benefit (Determination of Questions) Regulations (Northern Ireland) 1980 but shall apply to the amount of supplementary pension or allowance to which a person is presently entitled''.

*Amendment of the Single Payments Regulations*

**7.**—(1) This regulation shall amend the Single Payments Regulations.

(2) In regulation 3(2)(*b*) (meaning of single payment and determination of amount payable)—

(*a*) ''either'' shall be omitted;

(*b*) in head (i) for ''or'' there shall be substituted ''and'';

(*c*) for head (ii) there shall be substituted the following heads—

''(ii) does not have available to it a suitable alternative item, and

(iii) has not unreasonably either disposed or failed to avail itself of such an item.''.

(3) In regulation 6(1)(*a*) (circumstances in which and items for which single payments shall not be made), for ''the circumstances in question and those circumstances have not changed;'' there shall be substituted ''the item in question and the circumstances surrounding that payment have not changed;''.

(4) In regulation 6(1)(*d*), 8(1)(*c*) and (2)(*g*), 13(1) and 22(1), for ''Northern Ireland'' wherever it occurs there shall be substituted ''the United Kingdom''.

(5) In regulation 9 (meaning of essential furniture and household equipment), there shall be added, at the end, the following paragraph—

''(*t*) safety gates.''.