1981 No. 373

SUPPLEMENTARY BENEFITS

The Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1981

Made . . . . . *11th November 1981*

Coming into operation . . . *21st December 1981*

ARRANGEMENT OF REGULATIONS

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(2) and (2A) and 40A of, and paragraph 3(2)(*b*) of Schedule 1 to, the Supplementary Benefits (Northern Ireland) Order 1977(**a**) and of all other powers enabling it in that behalf and for the purpose only of consolidating regulations hereby revoked, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1981 and shall come into operation on 21st December 1981.

(2) In these regulations—

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

"Child Benefit Order" means the Child Benefit (Northern Ireland) Order 1975(**b**);

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

"claimant" means a claimant for supplementary benefit;

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

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

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

"patient" means a person (other than a prisoner) who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;

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

"prisoner" means any person whose detention in a prison, remand centre or young offenders centre is for the time being authorised by law;

"pupil" means a person who is excluded from entitlement to supplementary benefit by Article 9(2) of the Order (persons other than those in prescribed circumstances aged 16 or more but less than 19 and receiving relevant education);

"relevant education" has the meaning assigned to it in Article 9(3) of the Order;

"week" means any period of 7 consecutive days.

Circumstances in which married couples are to be treated as being, or not being, members of the same household

2.—(1) This regulation shall apply for the purposes of paragraph 3(1) of Schedule 1 to the Order (aggregation of requirements and resources of couples).

(2) Subject to paragraph (3), two persons who are married to each other shall not be treated as having ceased to be members of the same household by reason of any temporary absence the one from the other.

(3) Where two persons are married to each other and, before the occurrence of the circumstances to which this paragraph applies, were members of the same household, and one of them—

(*a*) is living away from his partner in residential accommodation, including accommodation provided pursuant to Article 15 (general social welfare) or 36 (accommodation for persons in need in premises maintained by certain persons or voluntary organisations) of the Health and Personal Social Services (Northern Ireland) Order 1972(**b**), he shall continue to be treated as a member of the same household as his partner unless—

(i) his partner is not entitled to a pension or allowance but the couple have insufficient resources to pay the appropriate charges determined pursuant to Article 99 of that Order, or

(ii) in the opinion of a benefit officer, his stay in that accommodation has become other than temporary;

(*b*) is a patient, he shall continue to be treated as a member of the same household as his partner unless either—

(i) he has been a patient for a continuous period of more than 2 years, or

(ii) in the opinion of a benefit officer, his stay in that hospital or similar institution has become other than temporary, or

(iii) he is a patient detained in accommodation provided under section 80 of the Mental Health Act (Northern Ireland) 1961(**c**);

(*c*) is absent from Northern Ireland while his partner remains in Northern Ireland, he shall continue to be treated as a member of the same household as his partner unless he has been absent for a continuous period of more than 4 weeks and—

(a) S.R. 1981 No. 371
(b) S.I. 1972/1265 (N.I. 14); as amended by Article 11 of the Health and Personal Social Services (Northern Ireland) Order 1978 (S.I. 1978/1907 (N.I. 26))
(c) 1961 c. 15 (N.I.)

(i) he is a claimant to whom regulation 3 of the Conditions of Entitlement Regulations (persons abroad whose entitlement is to continue) applies, or

(ii) before the absence began he was not, or would not have been if a claim for a pension or allowance had been made, the relevant person for the purposes of paragraph 2(3) of Schedule 1 to the Order;

(*d*) is a prisoner for any period, he shall be treated as not being a member of the same household as his partner for that period.

Circumstances in which a person is to be treated as being responsible for another person

3.—(1) This regulation shall apply for the purposes of paragraph 3(2) of Schedule 1 to the Order (aggregation of requirements and resources of dependants).

(2) A claimant (in this regulation referred to as A) shall be treated as responsible for another person (in this regulation referred to as B) where—

(*a*) B is a child or a pupil or a person to whom paragraph (5) applies;

(*b*) B is a member of the same household as A; and

(*c*) A and B are not a married or unmarried couple.

(3) Where the household includes, in addition to A and B, another member (in this regulation referred to as C) and—

(*a*) A and C are not a married or unmarried couple; and

(*b*) C is not a person whose requirements and resources fall to be aggregated with those of A,

any question as to whether A or C is responsible for B shall be determined by reference to the closeness to, and nature of the relationship with, B.

(4) Where a household includes both—

(*a*) a person to whom paragraph (5) applies; and

(*b*) a person who would be the claimant for a pension or allowance—

(i) if a claim were made, and

(ii) if the person mentioned in sub-paragraph (*a*) were a pupil,

the person to whom sub-paragraph (*b*) applies shall be treated as responsible for the person mentioned in sub-paragraph (*a*).

(5) A person to whom this paragraph applies is a person who—

(*a*) is aged 19, but less than 20;

(*b*) is attending a course which would, if he were aged less than 19, be relevant education;

(*c*) attained the age of 19 on or after the first day of the autumn term of the college or school year applicable to his course;

(*d*) during the whole of the 2 years immediately preceding the beginning of his course was neither in remunerative full-time work within the meaning of Article 9 of the Order nor available for employment within the meaning of Article 7 of the Order, but was receiving relevant education, and

(*e*) is not in circumstances to which regulation 11 of the Conditions of Entitlement Regulations (circumstances in which persons receiving relevant education are to be entitled to supplementary benefit) would apply were he aged less than 19.

Dependants who are not to be treated as members of the household

4.—(1) This regulation shall apply for the purposes of paragraph 3(2) of Schedule 1 to the Order (aggregation of requirements and resources of dependants) where—