1981 No. 371

SUPPLEMENTARY BENEFITS

The Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1981

Made . . . . . 11th November 1981

Coming into operation . . . 21st December 1981

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SCHEDULES

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 3(1B), 7, 8, 9 and 14 of 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:

(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

Citation and commencement

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

Interpretation

2. In these regulations—

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

"the Act" means the Social Security (Northern Ireland) Act 1975(**a**);

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

"Requirements Regulations" means the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980(**c**);

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

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

"benefit week" has the meaning assigned to it in regulation 7 of the Determination of Questions Regulations (date of commencement, change and termination of entitlement to pensions and allowances);

"claimant" means a claimant for supplementary benefit;

"close relative" means a spouse, partner, parent, child, step-parent, step-child, brother or sister;

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

"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;

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

"person affected by a trade dispute" means a person whose requirements fall to be disregarded to any extent by virtue of Article 12 of the Order;

"self-employed person" means a person engaged in any work otherwise than under a contract of service;

"student" means a person under pensionable age who has ceased relevant education and is attending a course of full-time education, but he shall not be deemed to be a student during periods when he is not attending his course and is not engaged on a programme of studies;

"training allowance" means an allowance (whether by way of periodical grants or otherwise) payable out of public funds by a Government department to a person for his maintenance, or in respect of any dependant of his, for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him; but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education or is training as a teacher.

(**a**) 1975 c. 15
(**b**) S.R. 1980 No. 423
(**c**) S.R. 1980 No. 347
(**d**) S.R. 1981 No. 370

Persons temporarily absent from Northern Ireland whose entitlement is to continue

3.—(1) Where a claimant for a pension, or a claimant for an allowance who satisfies the condition in paragraph (2), is temporarily absent from Northern Ireland and—

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

(*b*) would, but for his absence, be entitled to such pension or allowance,

his entitlement to that pension or allowance shall continue during his absence from Northern Ireland for a period not exceeding the end of the fourth benefit week which falls during that absence.

(2) The condition mentioned in paragraph (1) is that in the period mentioned in paragraph (1)(*a*) he was not required to register and be available for employment either—

(*a*) by virtue of regulation 6(*c*) (incapacity for work) and the Department has certified that it is consistent with the proper administration of the Order that, subject to the satisfaction of one of the conditions in heads (i) and (ii) below, paragraph (1) should apply, and either—

(i) the absence is for the specific purpose of being treated for incapacity which commenced before he left Northern Ireland, or

(ii) on the day on which the absence began he was, and had for the past 6 months continuously been, incapable of work or incapable of working within the meaning of regulation 6(*c*) and continues to be so incapable on each day of his absence to which paragraph (1) applies; or

(*b*) by virtue of any other paragraph of regulation 6 (except paragraph (*r*), (*s*) or (*t*)) and that paragraph continues to apply to him on each day of his absence to which paragraph (1) applies.

Meaning of employment for the purposes of Article 7 of the Order

4. For the purposes of Article 7 of the Order (requirement to register and to be available for employment) "employment" means work in employed earner's employment within the meaning of the Act—

(*a*) which the claimant can reasonably be expected to do;

(*b*) for which payment is made; and

(*c*) for which he would normally be engaged for not less than 30 hours a week or, if he is mentally or physically disabled, such lesser number of hours as, having regard to his disability, he is usually capable of working.

Manner of registration

5. A claimant required to register for employment pursuant to Article 7 of the Order shall, except where the Department decides otherwise, be so registered by registering in accordance with regulations having effect for the purposes of the Employment and Training Act (Northern Ireland) 1950(**a**).

Persons not subject to condition of registration and availability for employment

6. A claimant shall not be required to register and to be available for employment under Article 7 of the Order in any week in which one or more of the following paragraphs apply and regulation 8 does not apply to him—

(*a*) he is not a partner and either—

(i) he has a dependant living with him who is a child, or

(a) 1950 c. 29 (N.I.)

(ii) a child is boarded out with him by a Health and Social Services Board or voluntary organisation within the meaning of the Children and Young Persons Act (Northern Ireland) 1968(**a**) and has been so boarded out with him for at least 6 months before the week in which the claimant would, but for this paragraph, have been required to register and to be available for employment;

(*b*) he is regularly and substantially engaged in caring for a severely disabled person and—

(i) either attendance allowance under the Act is payable in respect of that person or paragraph 9 of Schedule 3 to the Requirements Regulations (attendance needs) applies in respect of that person or would apply to him if he made a claim for pension or allowance, and

(ii) there are no alternative means by which that person could be cared for,

except that, if in any case to which head (i) applies alternative means of care are available, this paragraph shall apply, but only for the period before alternative arrangements are made or for a period of 6 months, whichever is the shorter;

(*c*) he is a person to whom regulation 9(2)(*b*) applies or, by reason of some specific disease or bodily or mental disablement, he is either incapable of work or is incapable of working for the number of hours which would apply in his case by virtue of regulation 4(*c*);

(*d*) he is so blind as to be unable to perform any work for which eyesight is essential and he has been unused to working outside his home in the 12 months immediately preceding the claim;

(*e*) by reason of physical or mental disablement he has no further prospect of employment and in the 12 months immediately preceding has—

(i) on average worked for less than 4 hours a week,

(ii) been registered and available for employment under Article 7 of the Order for not less than 39 weeks,

(iii) made reasonable efforts to find employment and not refused any suitable employment,

and it is unlikely that there will be a vacancy for suitable employment for him in the locality in the near future;

(*f*) he has no prospect of future employment and lacks the training or experience to be able to enter or re-enter employment and—

(i) he is within 10 years of attaining pensionable age,

(ii) he has not been in employment in the 10 years immediately preceding the claim, and

(iii) during that period the requirement in Article 7 of the Order has not applied and would not have applied to him had a claim been made for an allowance by or in respect of him;

(*g*) she is pregnant and either she is incapable of work by reason of that pregnancy or she has reached a stage in her pregnancy which is either—

(i) not more than 11 weeks before the expected week of confinement, or

(ii) more than 11 weeks but less than 15 weeks before the expected week of confinement, and the benefit officer is satisfied that there is no vacancy in a suitable employment;

(*h*) he is a member of the household of a close relative and is caring for a child of that relative because the parent who usually looks after the child is absent or ill;

(**a**) 1968 c. 34 (N.I.)

(*i*) he is a student who by reason of a disability would, in comparison with other students, be unlikely to be able to obtain employment within a reasonable period of time;

(*j*) he is a student who is one of an unmarried couple, his partner is not a student and either—

(i) his partner is the parent of a child who is a dependant of the claimant but of whom the claimant is not a parent, or

(ii) his partner is, and has in the preceding 8 weeks been, unable to work for a reason specified in paragraph (*c*);

(*k*) he is a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(**a**) as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(**b**), and—

(i) he is attending for more than 15 hours a week a course for the purpose of learning English so that he may obtain employment, and

(ii) on the day on which that course commenced he had been in Northern Ireland for not more than 12 months,

so however that this paragraph shall apply only for a period not exceeding 6 months, except that where a period of further tuition in English is necessary for the purpose of obtaining employment it may apply for a further period not exceeding 3 months;

(*l*) he is in receipt of a training allowance;

(*m*) he is following an Open University course and is attending, as a requirement for that course, a residential course;

(*n*) he is in receipt of an allowance paid under the Job Release Act 1977(**c**);

(*o*) his employment as such has not been terminated and he is in receipt of a payment by virtue of any scheme for making payments to employers set up by the Department of Manpower Services under section 1 of the Employment Subsidies Act 1978(**d**) (schemes for financing employment);

(*p*) he is a person aged not less than 60 who is not registered for employment in accordance with regulations having effect for the purposes of the Employment and Training Act (Northern Ireland) 1950 and who, if not required to register and to be available for employment under Article 7 of the Order, would satisfy the conditions of regulation 7(1) of the Requirements Regulations (conditions for long-term rates for normal requirements of persons under pensionable age);

(*q*) he is required to attend a court for any period exceeding 2 days as a justice of the peace or as party to any proceedings, witness or juror;

(*r*) he has been discharged from detention in a prison, remand centre or young offenders centre and—

(i) no payment has been made for his benefit under section 41 of the Prison Act (Northern Ireland) 1953(**e**) (payments for discharged prisoners), and

(ii) in the opinion of the benefit officer it would be unreasonable to require him to register and to be available for employment for a period not exceeding 7 days from and including the day on which he first claims pension or allowance after his discharge;

(**a**) Cmnd. 9171
(**b**) Cmnd. 3906
(**c**) 1977 c. 8
(**d**) 1978 c. 6
(**e**) 1953 c. 18 (N.I.); as amended by section 27 of the Treatment of Offenders Act (Northern Ireland) 1968 c. 29 (N.I.)