1981 No. 215

SUPPLEMENTARY BENEFITS

The Supplementary Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 1981

Made	*29th June 1981*
Coming into operation . . .	*27th July 1981*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(2A), 3(1B), 4(1A)(*a*) and (*b*), 5, 6, 7, 9(1) and (2), 13(2), 15(1)(*a*) and (*c*), 16(1) and (1A), 19(1) and (2)(*a*), (*d*), (*f*), (*g*), (*i*), (*j*) and (*k*) and 25(4) of the Supplementary Benefits (Northern Ireland) Order 1977(**a**) and Article 6(1) of the Social Security (No. 2) (Northern Ireland) Order 1980(**b**) 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(**c**) 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, which may be cited as the Supplementary Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 1981, shall come into operation on 27th July 1981.

(2) In these regulations—

"Aggregation Regulations" means the Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1980(**d**);

"Claims and Payments Regulations" means the Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 1980(**e**);

"Conditions of Entitlement Regulations" means the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1980(**f**);

"Deductions and Payments Regulations" means the Supplementary Benefit (Deductions and Payments to Third Parties) Regulations (Northern Ireland) 1980(**g**);

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

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

(**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. 1980/1087 (N.I. 13)
(**c**) 1980 c. 30
(**d**) S.R. 1980 No. 330; as amended by S.R. 1980 No. 422
(**e**) S.R. 1980 No. 399
(**f**) S.R. 1980 No. 416; the relevant amending regulations are S.R. 1981 No. 28
(**g**) S.R. 1980 No. 356; as amended by S.R. 1980 No. 415
(**h**) S.R. 1980 No. 423
(**i**) S.R. 1980 No. 396; as amended by S.R. 1980 No. 415

"Single Payments Regulations" means the Supplementary Benefit (Single Payments) Regulations (Northern Ireland) 1980(**a**);

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

"Urgent Cases Regulations" means the Supplementary Benefit (Urgent Cases) Regulations (Northern Ireland) 1980(**c**).

Amendment of the Aggregation Regulations

2.—(1) This regulation shall amend the Aggregation Regulations.

(2) In regulation 1(2) (interpretation)—

(*a*) in the definition of "prisoner" for the words from "a person" to the end there shall be substituted "any person whose detention in a prison, remand centre or young offenders centre is for the time being authorised by law;";

(*b*) after the definition of "relevant education" there shall be inserted the following definition—

" "relevant person" means that one of a married or unmarried couple whose requirements and resources include those of the other by virtue of paragraph 3(1) of Schedule 1 to the Order;".

(3) In regulation 2 (circumstances in which married couples are to be treated as being, or not being, members of the same household)—

(*a*) in paragraph (3)(*b*), for head (ii) there shall be substituted the following heads—

"(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;";

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

"(*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—

(i) he is a claimant to whom regulation 3 of the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1980(**d**) (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 supplementary pension or allowance had been made, the relevant person;".

(4) In regulation 3 (circumstances in which a person is to be treated as being responsible for another person), in paragraph (3)(*b*), for "C is neither a partner of A nor" there shall be substituted "A and C are not a married or unmarried couple and C is not".

(5) In regulation 4(2) (dependants who are not to be treated as members of the household)—

(*a*) for sub-paragraph (*d*)(iii) there shall be substituted the following sub-paragraph—

(**a**) S.R. 1980 No. 363; as amended by S.R. 1980 No. 415
(**b**) S.R. 1980 No. 417
(**c**) S.R. 1980 No. 424
(**d**) S.R. 1980 No. 416

"(iii) he is subject to a training school order or is detained in legal custody, or";

(*b*) after sub-paragraph (*d*) there shall be added the following sub-paragraphs—

"(*e*) B is a child or pupil or person to whom regulation 3(5) applies who is boarded out with A by a Health and Social Services Board(**a**) or voluntary organisation within the meaning of the Children and Young Persons Act (Northern Ireland) 1968(**b**);

(*f*) B is a child or pupil or person to whom regulation 3(5) applies who is placed in the care and possession of A and whom A proposes to adopt.";

(*c*) in regulation 4(3) "(*a*), (*b*), (*c*) or (*d*)(i), (ii) or (iv)" shall be omitted;

(*d*) regulation 4(4) shall be omitted.

(6) After regulation 4 there shall be inserted the following regulation—

"Dependants who are to be treated as members of the household

4A. For the purposes of paragraph 3(2) of the Schedule a child or pupil or other person to whom regulation 4(2)(*f*) applies shall be treated as being a member of the same household as his parent, but only if that parent is treated as a person responsible for him for the purposes of Article 5 of the Child Benefit (Northern Ireland) Order 1975(**c**).".

Amendment of the Deductions and Payments Regulations

3.—(1) This regulation shall amend the Deductions and Payments Regulations.

(2) In regulation 3 (regular payments to third parties for housing and fuel requirements)—

(*a*) in paragraph (1), after sub-paragraph (*b*) and before the words "and, in the opinion of a benefit officer" there shall be inserted "which continues to be applicable to the claimant";

(*b*) in paragraph (3)(*b*) for "in respect of any such debt" there shall be substituted "for each such debt except where current consumption is paid for by other means (for example by a pre-payment meter)";

(*c*) in paragraph (3) there shall be added after sub-paragraph (*b*) "and the benefit officer may direct that, when the debt is discharged, the amount determined under sub-paragraph (*b*) shall continue to be an amount to which the determination applies";

(*d*) in paragraph (4)(*a*) for "total" there shall be substituted "normal".

(3) In regulation 6 (payment of supplementary benefit to third parties)—

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

"(*c*) either—

(i) in the opinion of a benefit officer is incapable of budgeting, or wilfully refuses to budget, for any item of expenditure to which Part II, III or IV of the Requirements Regulations (normal, additional or housing requirements) applicable to him relates, other than one to which regulation 3(1)(*a*) or (*b*) applies in circumstances to which that regulation applies, or

(ii) is temporarily absent from the home,";

(*b*) there shall be added at the end "; and in this regulation "home" has the meaning assigned to it in the Requirements Regulations".

(4) After regulation 8 there shall be added the following regulation—

(**a**) *See* Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14))

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

(**c**) S.I. 1975/1504 (N.I. 16)

"Payment of housing requirements on behalf of prisoners

9. Where a claimant is a prisoner within the meaning of regulation 2(1) of the Requirements Regulations (interpretation) to whom a pension or allowance is payable by virtue only of regulation 14(5)(*d*) of those regulations (housing requirements applicable to prisoners in custody awaiting trial or sentence), that pension or allowance shall be paid, at such intervals as the Department may direct, to the person or body to whom payment in respect of the claimant's housing requirements is due on behalf of the claimant in discharge of an obligation of his.".

Amendment of the Single Payments Regulations

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

(2) In regulation 2 (interpretation) in the definition of "prisoner" for the words from "a person" to the end there shall be substituted "any person whose detention in a prison, remand centre or young offenders centre is for the time being authorised by law;".

(3) In regulation 3 (meaning of single payment and amount payable), for paragraph (3) there shall be substituted the following paragraphs—

"(3) Except in so far as regulation 5(1) provides that no amount or a reduced amount shall be payable, the amount of a single payment which falls to be made by virtue of any regulation in Parts II to VII shall be—

(*a*) subject to paragraph (3B), where the amount is specified in that regulation, that amount; or

(*b*) where that regulation provides that the payment is to be made in respect of the purchase of an item, such amount as is necessary to purchase an item of reasonable quality; or

(*c*) where that regulation provides that the payment is to be made in respect of costs of services provided, the amount of such costs to the extent that they are reasonable.

(3A) Except in so far as regulation 5(2) provides that a reduced amount shall be payable, the amount of a single payment which falls to be made by virtue of regulation 30 shall be—

(*a*) where the payment is to be made in respect of the purchase of an item—

(i) subject to paragraph (3B), if that item, and an amount for that item, is specified in any regulation in Parts II to VII (including the Schedules), that amount,

(ii) in any other case, such amount as is necessary to purchase an item of reasonable quality, and if provision is made for the purchase of that item in Parts II to VII (for example, that the amount shall be in respect of the purchase of a second-hand item) that provision shall apply;

(*b*) where the payment is to be made in respect of costs of services provided, the amount of such costs to the extent that they are reasonable.

(3B) Where pursuant to regulation 8 of the Supplementary Benefit (Deductions and Payments to Third Parties) Regulations (Northern Ireland) 1980(**a**) (payment of single payments to third parties) a single payment is payable direct to the person who or the body which supplied the item in respect of which it is made, the amount of the single payment shall, notwithstanding any provision in these regulations, be the amount applicable under paragraph (3)(*a*) or (3A)(*a*)(i) or the actual cost of the item in respect of which it is made, whichever is less."

(**a**) S.R. 1980 No. 356

(4) In regulation 4 (meaning of "claimant") there shall be added after sub-paragraph (*b*) "but does not include a person who is or would be entitled to a pension or allowance by virtue only of the Supplementary Benefit (Urgent Cases) Regulations (Northern Ireland) 1980(**a**) during any period to which regulation 5(3)(*a*) of those regulations applies or would apply in the determination of the requirements applicable to him".

(5) In regulation 5 (effect of resources on amounts payable)—

(*a*) for "Where" at the beginning there shall be substituted "Except in so far as paragraph (2) and regulations 16, 21 and 25 provide otherwise, where";

(*b*) for "this regulation" there shall be substituted "this paragraph";

(*c*) there shall be added the following paragraph—

"(2) In the application of regulation 30—

(*a*) in the determination of means, any available capital shall be taken into account;

(*b*) if the means available to the claimant are insufficient to meet the cost of the item or services in question, any single payment payable under it shall be payable only to the extent that its amount exceeds the amount of the means available.".

(6) In regulation 7 (maternity needs), in paragraph (1)(*b*) there shall be added at the end "or has recently adopted a baby".

(7) In regulation 8 (funeral expenses)—

(*a*) in paragraph (1)(*b*) ", or (iii) a member of the assessment unit" shall be omitted;

(*b*) for paragraph (3) there shall be substituted the following paragraph—

"(3) The following amounts or sums shall be deducted from any amount which would, but for this paragraph, be payable under this regulation and, where more than one amount or sum falls to be deducted, priority shall be given in the following order—

(*a*) the value of the deceased's estate at the date of his death less the value of the deceased's home if owned solely or jointly by him and not occupied solely by him;

(*b*) the amount of any death grant payable under the Act in respect of the deceased's death unless that grant has been spent on any item in respect of which a single payment would otherwise have been made under this regulation;

(*c*) any lump sum due to the responsible member, or any other member of the assessment unit, on the death of the deceased by virtue of any insurance policy, occupational pension scheme or analogous arrangement;

(*d*) the amount of any contribution which has been received by the responsible member or any other member of the assessment unit from a charity, but only to the extent that that amount or, if more than one contribution has been received from any charity, the aggregate of the amounts received exceeds the cost of any funeral expenses other than those to which paragraph (2) applies;

(*e*) the amount of any contribution which has been received by the responsible member or any other member of the assessment unit from a relative of his or from a relative (but not a close relative) of the deceased, but only to the extent that that amount or, if more than one contribution has been received from any such relative, the aggregate of the amounts

(**a**) S.R. 1980 No. 424