1980 No. 422

SUPPLEMENTARY BENEFITS

The Supplementary Benefit (Aggregation, Requirements and Resources) (Amendment) Regulations (Northern Ireland) 1980

Made . . . . . *19th November 1980*

Coming into operation . . . *24th November 1980*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(2A)(*b*), 4(2) and 40A(*a*) of, and paragraphs 1(2) and 2(1), (3), (4) and (5) 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, hereby makes the following regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations, which may be cited as the Supplementary Benefit (Aggregation, Requirements and Resources) (Amendment) Regulations (Northern Ireland) 1980, shall come into operation on 24th November 1980.

(2) In these regulations—

"Aggregation Regulations" means the Supplementary Benefit (Aggregation) 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) 1980(**d**).

PART II

AMENDMENT OF THE AGGREGATION REGULATIONS

Amendment of the Aggregation Regulations

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

(2) In regulation 3(5) (person aged 19 receiving relevant education for whom claimant is to be treated as responsible) there shall be added at the end, after sub-paragraph (*d*), the words "except that this paragraph shall not apply to a person in circumstances to which regulation 12 of the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1980(**e**) (circumstances in which persons receiving relevant education are to be entitled to supplementary benefit) applies".

(3) After regulation 6 there shall be added the following regulation—

(**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.R. 1980 No. 330

(**c**) S.R. 1980 No. 347

(**d**) S.R. 1980 No. 348

(**e**) S.R. 1980 No. 416

"Polygamous relationships

7.—(1) Where between members of the same household there is a polygamous relationship—

(*a*) two of the members of that relationship shall be treated as a married or, as the case may be, unmarried couple within the meaning of those expressions in Article 2(2) of the Order; and

(*b*) the requirements and resources of all the members, and of any person who would be a dependant of any member if that member were a claimant, shall be aggregated with and treated as those of such member of that couple as may be appropriate in the circumstances.

(2) A person shall be treated as a member of a polygamous relationship where, but for the fact that the relationship includes more than two persons, he would be one of a married or unmarried couple.".

PART III

AMENDMENT OF THE REQUIREMENTS REGULATIONS

Amendment of the Requirements Regulations

3. The Requirements Regulations shall be amended in accordance with the Schedule to these regulations.

PART IV

AMENDMENT OF THE RESOURCES REGULATIONS

Amendment of regulation 2 of the Resources Regulations

4. In regulation 2 (interpretation)—

(*a*) in paragraph (1), in the definition of "liable relative"—

(i) for the words from "a spouse" to "parent" there shall be substituted "a spouse or former spouse, or a parent of a dependant",

(ii) for the words beginning "is making" to the end there shall be substituted "by reason of payments which he is making to or in respect of that child may reasonably be treated as such a father";

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

"(3) These regulations shall be subject to Article 6 of the Social Security (No. 2) (Northern Ireland) Order 1980(**f**) (supplementary benefit in cases affected by trade disputes).".

Amendment of regulation 3 of the Resources Regulations

5. In regulation 3 of the Resources Regulations (calculation of resources), after paragraph (2) there shall be added the following paragraph—

"(3) Where a resource which falls to be taken into account in accordance with these regulations would otherwise include a fraction of a penny that fraction shall be disregarded.".

Amendment of regulation 4 of the Resources Regulations

6.—(1) This regulation shall amend regulation 4 of the Resources Regulations (notional resources).

(**f**) S.I. 1980/1087 (N.I. 13)

(2) In paragraph (4) (unpaid services), for the words beginning "an unpaid service" to "comparable employment" there shall be substituted "for another person a service for which that person makes either no payment or a payment less than that paid for comparable employment, an amount of earnings calculated by reference to such employment".

(3) In paragraph (6) (payment to or in respect of third party), after sub-paragraph (*b*) there shall be added "unless, having regard to the purpose of the payment, the terms under which it is made and its amount, it is unreasonable to do so.".

(4) In paragraph (10) (high irregular earners), for sub-paragraph (*b*) to the end of the paragraph there shall be substituted the following—

"(*b*) the aggregate gross earnings payable to him in respect of the 13 weeks immediately preceding the claim exceed the product of—

(i) the figure derived by multiplying by 10 the weekly amount of normal requirements applicable at the date of the claim to a person to whom paragraph 4 of the Table in paragraph 2(3) of Schedule 1 to the Order (ordinary rate for householders) applies, and

(ii) the number of weeks, if any, during those 13 weeks in respect of which he was not in receipt of supplementary pension or allowance,

he shall be treated as having earnings at the rate of the figure derived in accordance with head (i) for the number of weeks, beginning with the date of the claim, equal to the result (any fraction being disregarded) of dividing that excess by that figure.".

(5) After paragraph (10) there shall be inserted the following paragraph—

"(11) Where a person owns any land, in whole or part, which falls to be disregarded by virtue of regulation 6(1)(*a*), a letting income, not exceeding the current market rate, may be treated as if it were actually paid to and possessed by that person, if, and for as long as, in the opinion of the benefit officer, it is reasonable in the circumstances to do so.".

Amendment of regulation 6 of the Resources Regulations

7. In regulation 6 of the Resources Regulations (capital resources to be disregarded)—

(*a*) in paragraph (1)(*a*)(ii), for "purchased" and "purchase" there shall be substituted "acquired" and "acquisition" respectively;

(*b*) in paragraph (1)(*a*)(iii), after "premises" there shall be inserted "or land";

(*c*) head (vi) of paragraph (1)(*a*) shall be renumbered as head (vii) and the following head shall be inserted after head (v)—

"(vi) any premises or land not wholly owned by the assessment unit for such period as is reasonable in the circumstances,".

(*d*) for paragraph (1)(*d*) there shall be substituted—

"(*d*) any savings of mobility allowance paid under the Act which the recipient intends to use in connection with mobility, or, for a period not exceeding 12 months from the date of receipt, any arrears of attendance or mobility allowance paid under the Act or of supplementary benefit;".

Amendment of regulation 9 of the Resources Regulations

8. In regulation 9 of the Resources Regulations (calculation of income resources), in paragraph (2) (period to which income attributable)—

(*a*) at the end of sub-paragraph (*a*) there shall be added "or in the case of income from any conacre or agistment letting such period as is reasonable in the circumstances;";

(*b*) in sub-paragraph (*c*), for the words beginning "or the first day" to the end there shall be substituted "or the earliest succeeding benefit week in which, having regard to the method by which supplementary benefit is payable in a particular case, it would be practicable to take it into account;";

(*c*) in sub-paragraph (*d*), for "received" wherever it occurs there shall be substituted "payable".

Amendment of regulation 11 of the Resources Regulations

9.—(1) This regulation shall amend regulation 11 of the Resources Regulations (calculation of other income).

(2) In paragraph (2) (other income to be taken into account in full), in sub-paragraph (*a*), for the words beginning "any benefit" to "1975" there shall be substituted "any payment made by virtue of regulations made under section 2 of the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975(**g**) or any payment made by virtue of a scheme made under section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975(**h**) and any benefit under the Act(**i**)".

(3) In paragraph (3) (payments by liable relatives)—

(*a*) after the words "and in the case of any lump sum payment shall" there shall be inserted "subject to paragraphs (3A) and (3B)";

(*b*) the proviso shall be omitted.

(4) After paragraph (3) there shall be added the following paragraphs—

"(3A) Paragraph (3) shall not apply to a lump sum payment in any case in which the liable relative is making to or in respect of the member of the assessment unit to or in respect of whom it is paid periodical payments at a rate of an amount equal to or exceeding that specified in paragraph (3)(*a*), but excluding for this purpose the sum of £2·00 there mentioned, or paragraph (3)(*b*) as appropriate ("the specified rate"); and in any case where he ceases to make such payments or is making them only at a lower rate (whether initially, or because the specified rate has increased and the periodical payments have not correspondingly increased, or because the periodical payments have been reduced), paragraph (3) shall apply with the modification, in any case except one in which the periodical payments have ceased, that the lump sum payment is attributable at a rate equal to the difference between the rate specified in paragraph (3)(*a*) or (*b*) as appropriate and the periodical payment.

(3B) The amount of a lump sum payment taken into account for the purposes of applying to it the provisions of paragraph (3) shall, in any week in which the assessment is made, be whichever is the lesser of—

(*a*) the amount received, less, where an assessment is made on review or on a repeat claim, the aggregate amount of income assumed from it by virtue of a previous determination;

(*b*) such part of the amount as may at that time reasonably be considered to form part of the resources of the assessment unit.".

(5) In paragraph (4)(*k*), (non-dependants' housing contributions) for "notional" there shall be substituted "fixed".

(6) In paragraph (5) (other income subject to disregard), after sub-paragraph (*c*) there shall be inserted the following sub-paragraph—

(**g**) 1975 c. 17
(**h**) 1975 c. 16
(**i**) *See* also Article 2(3) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15))

"(*cc*) the amount, if any, by which the amount receivable from letting any part of the home, calculated on a weekly basis, less where applicable any amounts calculated in accordance with regulation 22(2) of the Requirements Regulations (incidental and inclusive amounts), exceeds the aggregate amounts applicable for housing requirements under regulations 15 to 20 of those regulations;".

(7) After paragraph (5) there shall be inserted the following paragraph—

"(5A) In a case to which regulation 6 of the Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1980 (circumstances in which two persons, in that and this regulation referred to as A and B, are not to be treated as an unmarried couple) applies, in the calculation of resources for the purpose of determining A's entitlement to supplementary pension or allowance during the period of adjustment, the preceding paragraphs shall apply to the extent that there shall be taken into account only—

(*a*) any child benefit in respect of any dependant of A of whom B is not a parent;

(*b*) any family income supplement under the Family Income Supplements Act (Northern Ireland) 1971, but only to the extent that it would be payable if any dependant of B were disregarded;

(*c*) any payment to which paragraph (3) applies made to or in respect of any dependant of A of whom B is not the parent; and

(*d*) any income of any dependant of A of whom B is not a parent, but only to the extent that it falls to be taken into account under this regulation or regulation 12.".

(8) In paragraph (6), (interpretation), after sub-paragraph (*c*) there shall be inserted the following sub-paragraph—

"(*d*) where income is from conacre or agistment letting there shall be deducted from the gross amount payable any expenses reasonably incurred thereon.".

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 19th November 1980.

(L.S.) *T. S. Martin*
Assistant Secretary

The Department of Finance for Northern Ireland hereby consents to the foregoing regulations.

Sealed with the Official Seal of the Department of Finance for Northern Ireland on 19th November 1980.

(L.S.) *Desmond R. Cole*
Assistant Secretary