1980 No. 416

SUPPLEMENTARY BENEFITS

The Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1980

Made . . . . . *18th November 1980*

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

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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, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1980 and shall come into operation on 24th November 1980.

Interpretation

2. In these regulations —

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

(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.

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

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

"benefit week" has the meaning assigned to it in regulations made pursuant to Article 19(2)(*f*) of the Order (days on which entitlement to pension or allowance is to begin or end or amount thereof is to change);

"claimant" means a claimant for supplementary benefit;

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

"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;

"relevant education" has the meaning assigned to it in Article 9(3) of the Order and, in the case of a person aged 19 or over, means education which would, if he were aged less than 19, be relevant education;

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

"social security office" includes any office or place appointed by the Department for the purpose of claiming unemployment benefit;

"student" means a person under pensionable age who has left school and is attending a course of full-time education, other than 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;

"unemployment benefit" means unemployment benefit under the Act.

Persons abroad 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 for employment—

(*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—

(**b**) 1975 c. 15

(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 (other than paragraph (*o*), (*p*) or (*q*)), 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 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 to whom Article 7 of the Order applies shall, except where the Department decides otherwise, be registered for employment by registering in accordance with regulations having effect for the purposes of the Employment and Training Act (Northern Ireland) 1950(**c**).

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 applies—

(*a*) he is not a partner and has a dependant who is a child provided that, where he is fostering that child, he began to foster that child at least 6 months before the week in which the claimant would, but for this paragraph, have been required to register;

(*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 Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980(**d**) (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 is no alternative means by which that person could be cared for,

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

(*c*) 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;

(c) 1950 c. 29 (N.I.) (d) S.R. 1980 No. 347

(*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 student and—

(i) he is one of an unmarried couple, and

(ii) his partner is not a student and either is unable to work for any reason specified in paragraph (*c*) or (*g*) or has a dependant;

(*i*) 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;

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

(*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(**e**), as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(**f**), 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 an allowance paid under the Job Release Act 1977(**g**);

(*m*) he is a person 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;

(**e**) Cmnd. 9171
(**f**) Cmnd. 3906
(**g**) 1977 c. 8

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

(*o*) he is a person—

(i) who has been discharged from prison or other detention in legal custody or detention pursuant to any provision of the Mental Health Act (Northern Ireland) 1961(**h**), but

(ii) to whom no payment has been made under section 41 of the Prison Act (Northern Ireland) 1953(**i**) (payments for discharged prisoners),

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

(*p*) he is a person to whom one of the following applies—

(i) regulation 10(*a*) (first 15 days of employment),

(ii) regulation 12(*a*), (*c*) or (*d*) (person receiving relevant education who is a parent, or has no, or is estranged from his, parents or guardian), but only during his term-time,

(iii) regulation 12(*b*) (person receiving relevant education who is severely handicapped),

(iv) Article 12 of the Order (person affected by trade dispute),

(v) Article 13 of the Order (person returning to full-time employment following a trade dispute);

(*q*) he is a person to whom Part II of the Supplementary Benefit (Urgent Cases) Regulations (Northern Ireland) 1980 (emergency relief) applies;

(*r*) the preceding paragraphs do not apply to him, but the circumstances are analogous to any circumstances mentioned in one or more of those paragraphs and in the opinion of the benefit officer it would be unreasonable to require him to register for employment.

Circumstances in which persons are to be treated as available for employment

7.—(1) Subject to paragraph (2) and regulation 8, a claimant shall be treated as available for employment if he is available to be employed within the meaning of section 17(1)(*a*)(i) of the Act (available for employment for purposes of unemployment benefit) or regulations made under it.

(2) A claimant who is attending a part-time course of relevant education shall be treated as available for work if—

(*a*) the course is for less than 21 hours a week;

(*b*) the course may be terminated by the claimant at any time, and he is prepared to terminate it immediately a suitable vacancy becomes available to him;

(*c*) the claimant has not terminated an employment or a full-time course of education for the purpose of attending the course; and

(*d*) either he is aged less than 21 or, immediately preceding the commencement of the course, he was in receipt of an allowance, and had been registered and available for work for not less than 12 months pursuant to Article 7 of the Order.

(**h**) 1961 c. 15 (N.I.)

(**i**) 1953 c. 18 (N.I.); as amended by section 27 of the Treatment of Offenders Act (Northern Ireland) 1968 (1968 c. 29 (N.I.))