1980 No. 382

SOCIAL SECURITY

The Child Benefit (Determination of Claims and Questions) (Amendment No. 2) Regulations (Northern Ireland) 1980

Made . . . . . 30th October 1980

Coming into operation . . . . 24th November 1980

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by Article 9 of the Child Benefit (Northern Ireland) Order 1975(**a**) and section 119(3) and (4) of the Social Security (Northern Ireland) Act 1975(**b**) as applied by Article 10 of the above mentioned Order and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Child Benefit (Determination of Claims and Questions) (Amendment No. 2) Regulations (Northern Ireland) 1980 and shall come into operation on 24th November 1980.

(2) In these regulations "the principal regulations" means the Child Benefit (Determination of Claims and Questions) Regulations (Northern Ireland) 1976(**c**).

Amendment of regulation 4 of the principal regulations

2. In regulation 4(9) of the principal regulations (appeal to local tribunal) for "twenty-one days after the date on which the claimant is given notice in writing of the decision" there shall be substituted "twenty-eight days beginning with the date when the Department gives to the claimant notice in writing of the decision".

Insertion of new regulation 4A in the principal regulations

3. After regulation 4 of the principal regulations there shall be inserted the following regulation—

"*Application for leave to appeal to a Commissioner*

4A.—(1) Article 11 of the Social Security (Northern Ireland) Order 1980(**d**) (leave required for appeal from local tribunal to Commissioner) shall apply in relation to appeals to a Commissioner under the Order.

(2) Subject to the following provisions of this regulation, an application to the chairman of a local tribunal for leave to appeal to a Commissioner from a decision of a local tribunal which is unanimous shall be made in the first instance—

(*a*) orally at the hearing after the decision is announced by the tribunal; or

(*b*) in writing within twenty-eight days beginning with the date when a copy of the record of the tribunal's decision was given to the person concerned.

(3) The decision of the chairman on an application for leave to appeal made orally shall be recorded in the record of the proceedings of the tribunal.

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

(**b**) 1975 c.15; section 119(4) was amended by Article 3 of, and para. 12 of Sch. 1 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I.8))

(**c**) S.R. 1976 No. 225 (I, p. 1038); the relevant amending regulations are S.R. 1978 No. 106 (I, p. 311)

(**d**) S.I. 1980/870 (N.I. 8)

(4) A person who has been refused leave to appeal by the chairman of a tribunal may apply for such leave in writing to a Commissioner within six weeks beginning with the date when that person is given notice in writing of the chairman's decision refusing leave or within such further time as the Commissioner may for special reasons allow.

(5) Where an application having been made out of time the chairman of the local tribunal refuses leave to appeal, the person concerned may apply for such leave in writing to a Commissioner within ten weeks beginning with the date when a copy of the record of the tribunal's decision against which he seeks leave to appeal was given to him, or within such further time as the Commissioner may for special reasons allow.

(6) Every application for leave to appeal required by this regulation to be in writing shall be made by giving it or sending it to the Department for transmission either to the chairman of the local tribunal against whose decision it is desired to appeal, or to a Commissioner, as the case may be; and every such application shall contain a statement of the grounds upon which leave to appeal is requested.

(7) Where an application in writing for leave to appeal is made by an insurance officer, the insurance officer shall, as soon as may be practicable, send to the claimant a copy of the application.

(8) Where, in any case, it is impracticable or it would be likely to cause undue delay for an application for leave to appeal against a decision of a local tribunal to be determined under Article 11(1) of the Social Security (Northern Ireland) Order 1980 by the person who was chairman of that tribunal, that application shall be determined by any other person appointed to act as a chairman for the particular area or if there is no such person by the chairman of a local tribunal in an adjoining area.''.

Amendment of regulation 5 of the principal regulations

4. In regulation 5 of the principal regulations (appeal from local tribunal to Commissioner)—

(*a*) in paragraph (1) after ''Subject to the provisions'' there shall be inserted ''of regulation 4A and'';

(*b*) in paragraph (3) for ''from the date of the decision of the local tribunal or'' there shall be substituted ''beginning with the date when notice in writing of the decision of the local tribunal was given or, if leave to appeal is required, within three months beginning with the date when notice of the decision granting leave to appeal was given or in either case''.

Amendment of regulation 13 of the principal regulations

5. In regulation 13 of the principal regulations (hearings before a local tribunal), at the end of paragraph (3) there shall be added ''but such consent may only be given if the claimant is first informed of the effect of the provisions requiring leave to appeal to a Commissioner from a decision of a tribunal which is unanimous.''.

Amendment of regulation 16 of the principal regulations

6. In regulation 16 of the principal regulations (payment of sums on account of benefit where appeal is pending) for paragraph (2) there shall be substituted the following—

''(2) Subject to paragraph (4), where notice of an appeal by an insurance officer to a Commissioner from an award of a local tribunal is given or sent to the claimant within a period of twenty-eight days beginning on the date when the insurance officer was given notice in writing of the local tribunal's decision, payment of the benefit to which the appeal relates shall be suspended until the appeal has been determined.