1980 No. 330

SUPPLEMENTARY BENEFITS

The Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1980

Made . . . . . *30th September 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(2) and (2A) and 4(2) of, and paragraph 3(2) of Schedule 1 to, the Supplementary Benefits (Northern Ireland) Order 1977(**a**) 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 Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1980 and shall come into operation on 24th November 1980.

(2) In these regulations—

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

"claimant" means a claimant for supplementary benefit;

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

"patient" means a person (other than a prisoner) who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;

"prisoner" means a person who is in prison or otherwise detained in legal custody, including any period during which he is a patient in any hospital or similar institution while still liable to be so imprisoned or detained or during which he was liable to be detained in such institution by virtue of any provision of the Mental Health Act (Northern Ireland) 1961(**b**);

"pupil" means a person who is excluded from entitlement to supplementary benefit by Article 9(2) of the Order (persons other than those in prescribed circumstances aged 16 or more but less than 19 and receiving relevant education);

"relevant education" has the meaning assigned to it in Article 9(3) of the Order;

"the Schedule" means Schedule 1 to the Order;

"week" means any period of 7 consecutive days.

Circumstances in which married couples are to be treated as being, or not being, members of the same household

2.—(1) This regulation shall apply for the purposes of paragraph 3(1) of the Schedule (aggregation of requirements and resources of couples).

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

(2) Subject to paragraph (3), two persons who are married to each other shall not be treated as having ceased to be members of the same household by reason of any temporary absence the one from the other.

(3) Where two persons are married to each other and, before the occurrence of the circumstances to which this paragraph applies, were members of the same household, and one of them—

(*a*) is living away from his partner in residential accommodation, including accommodation provided pursuant to Article 15 (general social welfare) or 36 (accommodation for persons in need in premises maintained by certain persons or voluntary organisations) of the Health and Personal Social Services (Northern Ireland) Order 1972(**c**), he shall continue to be treated as a member of the same household as his partner unless—

(i) his partner is not entitled to supplementary pension or allowance but the couple have insufficient resources to pay the appropriate charges determined pursuant to Article 99 of that Order, or

(ii) in the opinion of a benefit officer, his stay in that accommodation has become other than temporary;

(*b*) is a patient, he shall continue to be treated as a member of the same household as his partner unless either—

(i) he has been a patient for a continuous period of more than 2 years, or

(ii) he is a person to whom sub-paragraph (*a*)(ii) applies;

(*c*) is absent from Northern Ireland while his partner remains in Northern Ireland, he shall be treated as not being a member of the same household as his partner for any period of that absence which exceeds four weeks, except that this sub-paragraph shall not apply where the absent partner is a claimant to whom regulations pursuant to Article 3(1B) of the Order (entitlement to benefit to continue during prescribed periods of temporary absence from Northern Ireland) do not apply;

(*d*) is a prisoner for any period, he shall be treated as not being a member of the same household as his partner for that period.

Circumstances in which a person is to be treated as being responsible for another person

3.—(1) This regulation shall apply for the purposes of paragraph 3(2) of the Schedule (aggregation of requirements and resources of dependants).

(2) A claimant (in this regulation referred to as A) shall be treated as responsible for another person (in this regulation referred to as B) where—

(*a*) B is a child or a pupil or a person to whom paragraph (5) applies;

(*b*) B is a member of the same household as A; and

(*c*) A and B are not a married or unmarried couple.

(3) Where—

(*a*) the household includes, in addition to A and B, another member (in this regulation referred to as C); and

(*b*) C is neither a partner of A nor a person whose requirements and resources fall to be aggregated with those of A,

any question as to whether A or C is responsible for B shall be determined by reference to the closeness to, and nature of the relationship with, B.

(c) S.I. 1972/1265 (N.I. 14): as amended by Article 11 of the Health and Personal Social Services (Northern Ireland) Order 1978 (S.I. 1978/1907 (N.I. 26))