1978 No. 107

SOCIAL SECURITY

The Social Security (Overlapping Benefits) (Amendment) Regulations (Northern Ireland) 1978

Made . . . . . *18th April* 1978

Coming into operation . . . . *6th April* 1979

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 85 of the Social Security (Northern Ireland) Act 1975(**a**), and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, interpretation and commencement

1.—(1) These regulations, which may be cited as the Social Security (Overlapping Benefits) (Amendment) Regulations (Northern Ireland) 1978, shall be read as one with the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1975(**b**) as amended(**c**), (hereinafter referred to as "the principal regulations"), and shall come into operation on 6th April 1979.

(2) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**d**) shall apply in relation to this statutory rule and the regulations revoked by it as if this statutory rule and the regulations revoked by it were Acts of Parliament and the revocations were repeals.

Amendment of regulation 2 of the principal regulations

2. In regulation 2 of the principal regulations (interpretation)—

(*a*) in paragraph (1) after the definition of "the Child Benefit Order" there shall be inserted the following definitions:—

" 'the Pensions Order' means the Social Security Pensions (Northern Ireland) Order 1975(**e**);

'benefit under Chapters I and II of Part II of the Act' includes benefit treated as included in Chapter I of Part II of the Act by virtue of Article 2(3)(*b*) of the Pensions Order;";

(*b*) after paragraph (3) there shall be added at the end the following paragraph:—

"(4) For the purposes of these regulations, unless otherwise specified, additional component payable by virtue of Article 8 of the Pensions Order shall be treated as a separate personal benefit included in Chapter I of Part II of the Act.".

(**a**) 1975 c. 15
(**b**) S.R. 1975 No. 94 (I, p. 561)
(**c**) The relevant amending regulations are S.R. 1975 Nos. 202 (II, p. 1036) and 280 (II, p. 1352); S.R. 1976 Nos. 99 (I, p. 415) and 321 (II, p. 1635) and S.R. 1977 No. 73
(**d**) 1889 c. 63
(**e**) S.I. 1975/1503 (N.I. 15)

New regulation to be inserted in the principal regulations

3. After regulation 2 of the principal regulations there shall be inserted the following regulation:—

"*Special provisions for widow's benefit and invalidity pension*

2A.—(1) This regulation applies where, apart from these regulations, there is payable for the same period to a person under pensionable age both—

(*a*) an invalidity pension; and

(*b*) a widowed mother's allowance or widow's pension (hereafter referred to in this regulation as "the widow's benefit").

(2) The total amount payable in respect of these benefits under this regulation shall be—

(*a*) the sum of the two basic components up to and not exceeding the rate specified in Article 8(1)(*a*) of the Pensions Order; and

(*b*) the sum of the two additional components up to and not exceeding the maximum for the time being prescribed under Article 11(3) of the Pensions Order.

(3) Subject to paragraph (4)—

(*a*) where the beneficiary has made application, before the payment is made, that the total amount payable should be treated as being made up of the rate of the invalidity pension, any balance being the widow's benefit, it shall be so treated;

(*b*) in any other case, that amount shall be treated as being made up of the rate of the widow's benefit, any balance being the invalidity pension.

(4) For the purposes of the remainder of these regulations (other than regulation 5(5)), which shall apply after adjustment has been made under this regulation, the total amount payable under this regulation shall be treated as a single long-term benefit payable on a weekly basis.".

Amendment of regulation 3 *of the principal regulations*

4.—(1) Regulation 3 of the principal regulations (adjustment of personal benefit under Chapters I and II of Part II of the Act where other personal benefit under those Chapters is payable) shall be amended in accordance with the following paragraphs of this regulation.

(2) In paragraph (1) for "paragraphs (2) and (3)" there shall be substituted "paragraphs (2), (3) and (3A)".

(3) In paragraph (2) for sub-paragraph (*f*) there shall be substituted the following sub-paragraph:—

"(*f*) additional component or graduated retirement benefit (except as provided by paragraph (3A));".

(4) After paragraph (3) there shall be inserted the following paragraph:—

"(3A) Where there are payable 2 or more personal benefits to which this regulation applies with which additional component or graduated retirement benefit is payable as part of the rate of benefit or as an increase of benefit—

(*a*) for the purposes of adjustment falling to be made under paragraph (4) that additional component or graduated retirement benefit shall be treated as part of the personal benefit with which it is so payable;

(*b*) the provisions of sub-paragraph (*a*) shall apply before any further adjustment under these regulations; and