1977 No. 229

SUPPLEMENTARY BENEFITS

The Supplementary Benefit (General) Regulations (Northern Ireland) 1977

Made . . . . . 28*th July* 1977

Coming into operation . . . . 29*th July* 1977

ARRANGEMENT OF REGULATIONS

Regulation

1 Citation, commencement and interpretation
2 Modification of condition requiring residence in the United Kingdom for qualifying period
3 Persons in full-time employment
4 Registration for employment
5 Net weekly earnings
6 Certain sums to be earnings
7 Persons in residential homes
8 Fractional amounts of requirements and resources
9 Duration of awards of pensions and allowances
10 Review of determinations made by the Commission or an Appeal Tribunal
11 Review of determinations imposing misconduct reduction
12 Date of commencement, change and termination of entitlement to pensions and allowances
13 Notice of decisions
14 Revocations

SCHEDULE—Revocations

The Department of Health and Social Services(**a**), in exercise of the powers conferred on it by sections 4(1), 7, 8(2), 11 and 18(1) of, and paragraphs 7 and 15 of Schedule 2 to, the Supplementary Benefits &c. Act (Northern Ireland) 1966(**b**) (as amended in the case of the said section 4(1) by Article 11(3) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(**c**)), and section 8 of the National Insurance &c. (No. 2) Act (Northern Ireland) 1969(**d**), and Article 14 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977, and with the consent of the Department of Finance(**a**) where required(**e**), 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 (General) Regulations (Northern Ireland) 1977 and shall come into operation on 29th July 1977.

(**a**) Formerly Ministry: *see* 1973 c. 36 Sch. 5 para. 8(1)
(**b**) 1966 c. 28 (N.I.)
(**c**) S.I. 1977/610 (N.I. 11)
(**d**) 1969 c. 19 (N.I.)
(**e**) *See* 1966 c. 28 (N.I.) section 4(1) as amended by S.I. 1977/610 (N.I. 11) Article 11(3)

(2) In these regulations—

"the Act" means the Supplementary Benefits &c. Act (Northern Ireland) 1966;

"the Order" means the Health and Personal Social Services (Northern Ireland) Order 1972(f);

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

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

"allowance" means a supplementary allowance;

"Appeal Tribunal" means an Appeal Tribunal constituted in accordance with the provisions of Schedule 3 to the Act;

"the claimant" means a person who has claimed benefit;

"pension" means a supplementary pension.

(3) Any notice or other document required or authorised to be given or sent to any person under the provisions of these regulations shall be deemed to have been given or sent if it was sent by post to that person at his ordinary or last known address.

Modification of condition requiring residence in the United Kingdom for qualifying period

2.—(1) It shall be an exception to the requirement of section 7 of the Act that a person who has not been resident in the United Kingdom for a period of 5 years immediately preceding the date on which his application for benefit was made shall be treated for the purposes of that section as if he had been resident in the United Kingdom:

(*a*) during any period during which he was—

(i) employed as a member of any of Her Majesty's Forces;

(ii) employed on board any ship, vessel, hovercraft or aircraft in an employment which for the purposes of the Social Security Act has been treated as an employed earner's employment;

(iii) employed under a contract of service by an employer having a place of business in the United Kingdom, having been resident in the United Kingdom immediately before becoming so employed;

(iv) resident in a country with which a convention or agreement (being a convention or agreement under which in relation to benefit under the Act residence in that other country is treated as if it were residence in the United Kingdom) has been made providing for reciprocity in the matter of benefit under the Act and of comparable benefit under the legislation of that other country for persons whose resources are insufficient to meet their requirements, being a person to whom the convention or agreement applies; or

(v) not resident in the United Kingdom, having been resident therein before the commencement of that period, for any cause which in the opinion of the Commission was in all the circumstances reasonable;

or

(*b*) being a man whose requirements are taken under paragraph 3 of Schedule 2 to the Act to include those of his wife or of a person who is or was a child of hers, during any period, whether before or after the date of the marriage, during which the said wife was—

(f) S.I. 1972/1265 (N.I. 14)
(g) 1975 c. 15

(i) resident in the United Kingdom; or

(ii) a person to whom sub-paragraph (*a*) would have applied if she had made an application for benefit;

or

(*c*) being a woman who is or has been married, during any period, whether before or after the date of her marriage but before its termination, during which her husband was—

(i) resident in the United Kingdom; or

(ii) a person to whom sub-paragraph (*a*) would have applied if he had made an application for benefit.

(2) Paragraph (1)(*b*) shall apply similarly as regards the man where two persons who are not married to each other are or have been living together as husband and wife and paragraph (1)(*c*) shall apply similarly as regards the woman where 2 persons who are not married to each other but have been living together as husband and wife, have ceased to live together, and her requirements are taken under paragraph 3 of Schedule 2 to the Act to include those of a person who is or was a child of theirs; and in either case the references in those provisions to a wife and to a husband shall be construed accordingly and the references to the date of marriage and to its termination shall be construed respectively as references to the date on which they commenced living together as husband and wife and to the termination of so living together.

(3) In this regulation the expression "wife" in relation to a man who has been married more than once and the expression "husband" in relation to a woman who has been married more than once refer respectively only to his last wife and to her last husband.

Persons in full-time employment

3. Section 8(1) of the Act (exclusion of persons in full-time employment) shall not apply to a person becoming engaged in remunerative full-time work until the expiration of a period of 15 days from the beginning of the engagement.

Registration for employment

4.—(1) Where the Commission determine under section 11 of the Act that the right of any person to an allowance shall be subject to the condition that he is registered for employment he shall be so registered in the following manner—

(*a*) by registering in accordance with regulations having effect for the purposes of the Employment and Training Act (Northern Ireland) 1950(**h**); and

(*b*) by attending at a social security office on such occasions as he would be required to attend if he were claiming unemployment benefit under the Social Security Act and there signing a form approved by the Department and including a declaration as to his unemployment and ability and willingness to do any suitable work.

(2) For the purpose of this regulation, "social security office" includes any office or place appointed by the Department for the purpose of claiming unemployment benefit under the Social Security Act.

(**h**) 1950 c. 29 (N.I.)

Net weekly earnings

5.—(1) For the purposes of Schedule 2 to the Act a person's net weekly earnings shall be the net remuneration or profit, calculated on a weekly basis, derived by him from any occupation or occupations and, in particular, in so far as the earnings consist of salary or wages, there shall be deducted—

(*a*) any sum the deduction of which from salary or wages is authorised by statute; and

(*b*) any expenses reasonably incurred by him in connection with his employment.

(2) Where the actual earnings of a person for a week are not immediately ascertainable for the purposes of calculating his net weekly earnings under paragraph (1), his net weekly earnings shall be estimated on the basis of such information as he is able to supply and such other relevant information as is available.

Certain sums to be earnings

6. For the purposes of the Act, any such sum as is referred to in Article 14 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(i) (certain sums to be earnings for social security purposes) shall be deemed to be earnings of the person entitled to receive such sum in respect of the period to which it relates.

Persons in residential homes

7.—(1) Subject to the provisions of paragraph (2) for the purpose of calculating the requirements of a person for whom accommodation which includes board and other services is provided under Articles 15 and 36 of the Order the sum of £3·05 shall be the prescribed amount by which those requirements are to be taken as exceeding the rate applicable to his case for the time being determined by the Department under Article 99(2) of the Order as the lower rate of payment in respect of certain accommodation for persons in need.

(2) Where the person referred to in paragraph (1) is someone to whom there is payable attendance allowance under the provisions of section 35 of the Social Security Act or constant attendance allowance under any Personal Injuries Scheme, Service Pensions Instrument or any 1914-1918 War Injuries Scheme, the sum of £3·05, prescribed in paragraph (1) shall be increased by the amount of such allowance.

(3) In this regulation "Personal Injuries Scheme", "Service Pensions Instrument" and "1914-1918 War Injuries Scheme" have the same meanings as in the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1975(j).

Fractional amounts of requirements and resources

8. Where a person's requirements or resources taken into consideration under Schedule 2 to the Act include a fraction of a penny, that fraction shall be treated as a penny if it relates to requirements and shall be disregarded if it relates to resources.

(i) S.I. 1977/610 (N.I. 11)
(j) S.R. 1975 No. 94 (I, p. 561)

Duration of awards of pensions and allowances

9.—(1) The Commission or an Appeal Tribunal may award a pension or allowance at a weekly rate—

(*a*) for a specified period consisting of a week or of a number of weeks; or

(*b*) for an indefinite period.

(2) Notwithstanding paragraph (1), the Commission or an Appeal Tribunal may in any particular case or class of cases award a pension or allowance for a specified period which is not a week or a multiple of a week.

Review of determinations made by the Commission or an Appeal Tribunal

10.—(1) Subject to the provisions of paragraph (2), a determination made by the Commission or by an Appeal Tribunal on the right to or amount of pension or allowance in respect of any period may be reviewed by the Commission if—

(*a*) the Commission are satisfied that the determination was made in ignorance of, or was based on a mistake as to, some material fact; or

(*b*) there has been any relevant change of circumstances since the determination was made and the determination on review would result in—

(i) an increase in the amount of pension or allowance payable; or

(ii) except where payment of sums on account of a pension or allowance is made by a book of a series of orders, any decrease in the amount of pension or allowance payable; or

(iii) a decrease of not less than £0·50 in the amount of pension or allowance payable where payment of sums on account of that pension or allowance is made by a book of a series of orders.

(2) Where a review under paragraph (1) arises from a material fact or relevant change of circumstances of which a claimant was aware but of which he previously failed to furnish information to the Department, then if that review would result in an increase in the amount of pension or allowance payable, that increase shall not be payable from a date earlier than 52 weeks before the week in which the claimant first furnished that information.

(3) A determination made by the Commission or by an Appeal Tribunal on any of the following matters—

(*a*) the issue of benefit to a person other than the claimant;

(*b*) the imposition of a condition under section 11 of the Act;

(*c*) the provision of goods or services instead of the whole or part of any payment;

may be reviewed by the Commission in respect of such period as the Commission may determine having regard to the circumstances of the case if—

(i) there has been any relevant change of circumstances since the original determination was made, or

(ii) the Commission are satisfied that the determination was made in ignorance of, or was based on a mistake as to, some material fact.

(4) A determination made by the Commission or by an Appeal Tribunal on any of the following matters—

(*a*) the recovery of the whole or part of any sums paid by virtue of section 13 of the Act;

(*b*) the amount of any excess mentioned in section 17 of the Act;