1975 No. 280

SOCIAL SECURITY

The Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975

Made	*2nd October* 1975
Coming into operation . . .	*6th October* 1975

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 37A, 79(1), 81, 82(5), 85, 114(1) and (2) and 119(3) and (4) of the Social Security (Northern Ireland) Act 1975(**a**) as amended by Articles 24(1) and (2) and 74(1) of, and paragraphs 29, 31, 32 and 33 of Schedule 5 to, the Social Security Pensions (Northern Ireland) Order 1975(**b**), Articles 24(3) and (4) of the said Order and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975 and shall come into operation on 6th October 1975.

(2) In these regulations, unless the context otherwise requires—

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

"allowance" means mobility allowance;

"child" means a person who is under the age of 16;

"medical authority" means a medical appeal tribunal, a medical board or any medical practitioner appointed or nominated for the purposes of these regulations by the Department;

and other expressions have the same meanings as in the Act.

(3) Reference in these regulations to a person's father, mother, son, daughter, brother or sister shall include a reference to his step-father, step-mother, step-son, step-daughter, half-brother and step-brother, or half-sister and step-sister, as the case may be, and a person shall be treated as such a relative if he is such a relative by adoption or would be such a relative if some person born illegitimate had been born legitimate.

(4) Except in so far as the context otherwise requires any reference in these regulations to—

(*a*) a numbered section is to the section of the Act bearing that number;

(*b*) a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number;

(a) 1975 c. 15 (b) S.I. 1975 No. 1503 (N.I. 15)

(*c*) any provision made by or contained in any enactment or instrument shall be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which may re-enact or replace it with or without modifications.

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**c**) shall apply for the purposes of the interpretation of this statutory rule as they apply for the purposes of the interpretation of an Act of Parliament.

PART II

ENTITLEMENT

Entitlement conditions as to residence and presence in Northern Ireland

2.—(1) Subject to the following provisions of this regulation, the prescribed conditions as to residence or presence in Northern Ireland to be satisfied by any person in respect of any day for the purposes of section 37A shall be—

(*a*) that he is ordinarily resident in Northern Ireland; and

(*b*) that he is present in Northern Ireland; and

(*c*) that he has been present in Northern Ireland for a period of, or periods amounting in the aggregate to, not less than 52 weeks in the 18 months immediately preceding that day; and

(*d*) in the case of a person who, in respect of a period which includes that day, receives earnings or other emoluments which are exempt from United Kingdom income tax under any of the provisions specified in paragraph (2), or the spouse or son or daughter under the age of 16 of such a person, that he was present in Northern Ireland for a period of, or periods amounting in the aggregate to, 156 weeks in the period of 4 years immediately preceding the period in respect of which he first receives or received such emoluments.

(2) For the purposes of paragraph (1)(*d*), the relevant provisions, under which earnings or other emoluments may be exempted from United Kingdom income tax, are—

(*a*) section 367 or sections 372 to 374 of the Income and Corporation Taxes Act 1970(**d**) (in this regulation hereafter referred to as the "Taxes Act") which relate to exemption from income tax, etc., of visiting forces, staffs of allied headquarters and of Commonwealth and foreign representatives;

(*b*) section 2 of, and Article 34 or 37 of Schedule 1 to the Diplomatic Privileges Act 1964(**e**), or section 1 of, and Article 49 or 66 of Schedule 1 to the Consular Relations Act 1968(**f**) which relate to exemption from income tax, etc., of members of diplomatic missions and their staffs, etc., and of certain consular officers, etc.;

(*c*) section 4 of the Arbitration (International Investment Disputes) Act 1966(**g**) which relates to status, immunities and privileges conferred by the Convention on the settlement of investment disputes between States and nationals of other States;

(c) 1889 c. 63
(d) 1970 c. 10
(e) 1964 c. 81
(f) 1968 c. 18
(g) 1966 c. 41

(*d*) an Order in Council, statutory notice, or regulations, made or given under, or continuing to have effect by virtue of, any of the following enactments—

(i) the Bretton Woods Agreements Act 1945(**h**), section 3 (status, immunities and privileges of the International Monetary Fund, the International Bank for Reconstruction and Development and Governors, Executive Directors, alternates, officers and employees of the Fund and Bank);

(ii) the Taxes Act, section 497 (relief from double taxation);

(iii) the Consular Relations Act 1968, section 3(1) (additional privileges and immunities accorded as a result of agreement) and section 12 (privileges and immunities in connection with Commonwealth and Irish establishments);

(iv) the International Finance Corporation Act 1955(**i**), section 3 (status, immunities and privileges of the International Finance Corporation, its Governors, Directors, alternates, officers and employees);

(v) the International Development Association Act 1960(**j**), section 3 (status, immunities and privileges of the Association, its Governors, Directors, alternates, officers and employees);

(vi) the Diplomatic Privileges Act 1964, section 2(6) (certain privileges and immunities admitted by, or certain additional privileges and immunities granted by, the receiving State);

(vii) the International Organisations Act 1968(**k**), sections 1, 2, 5, 6 and 12(5) and paragraphs 9, 15, 21 and 23 of Schedule 1 (privileges and immunities of certain international organisations and their officers, etc.);

(viii) the European Communities Act 1972(**l**), section 2(2) (giving effect to, inter alia, the Protocol on the Privileges and Immunities of the European Communities—Articles 12 to 15, 20 and 21).

(3) For the purposes of paragraph (1)(*b*) and (1)(*c*), a person who is absent from Northern Ireland on any day shall be treated as being present in Northern Ireland—

(*a*) if on that day he is—

(i) a merchant seaman within the meaning of the Family Allowances (Qualifications) Regulations (Northern Ireland) 1970(**m**); or

(ii) a member of the forces within the meaning of those regulations; or

(iii) living with such a member of the forces and is that member's spouse, son, daughter, father, father-in-law, mother or mother-in-law; or

(*b*) if his absence is, and when it began was, for a temporary purpose and has not lasted for a continuous period exceeding 26 weeks; or

(*c*) where his absence is temporary and for the specific purpose of his being treated for incapacity, or a disabling condition, which commenced before he left Northern Ireland, during such period as the Department may allow having regard to the circumstances of the case.

(**h**) 1945 c. 19
(**i**) 1955 c. 5
(**j**) 1960 c. 35
(**k**) 1968 c. 48
(**l**) 1972 c. 68
(**m**) S.R. & O. 1970 No. 23 (p. 167)

(4) Paragraph (1)(*d*) shall not apply to any person, or his spouse, or son or daughter under the age of 16, in respect of a day if, in relation to the tax year immediately preceding the tax year in which that day falls, he proves that the amount of his earnings or other emoluments to which paragraph (1)(*d*) refers was less than his total income as defined in section 528 of the Taxes Act.

Circumstances in which, for the purposes of section 37A, a person is or is not to be treated as suffering from physical disablement such that he is unable or virtually unable to walk

3.—(1) A person shall only be treated, for the purposes of section 37A, as unable to walk or virtually unable to do so, if his physical condition as a whole is such that, without having regard to circumstances peculiar to that person as to place of residence or as to place of, or nature of, employment,—

(*a*) he is unable or virtually unable to walk; or

(*b*) the exertion required to walk would constitute a danger to his life or would be likely to lead to a serious deterioration in his health.

(2) A person shall not be treated, for the purposes of section 37A as unable to walk or virtually unable to do so if he is able to walk with a prosthesis or an artificial aid which he habitually wears or uses or if he would be able to walk if he habitually wore or used a prosthesis or an artificial aid which is suitable in his case.

Entitlement to allowance in respect of weeks before that in which claim is received by the Department

4.—(1) Where a person, by whom a claim for an allowance is made, requests the Department to treat the claim as having been received on a date earlier than the date on which it is received by the Department or satisfies the Department that a claim which has been sent by post has not been received in the ordinary course of post, the entitlement to an allowance of the person in respect of whom the claim is made shall be determined as if the claim had been received by the Department on such earlier date, being a date not more than 3 months before the date on which the claim is so received, as the Department may determine.

(2) Where, by virtue of regulation 6, a claim for an allowance, made by or in respect of a person not more than 3 months after the end of a previous period for which that person has been awarded an allowance, is treated as a claim for a period beginning immediately after the end of such previous period, the entitlement of that person to an award on that claim shall be determined as if the claim had been received by the Department immediately after the end of that previous period.

PART III

CLAIMS AND PAYMENTS

Claim and award for period beginning after the date on which the claim is received

5.—(1) A claim for an allowance may be made, or treated as made, for a period beginning on such date later than the date on which the claim is received, being a date not more than 3 months after the date on which it is so received, as the Department may determine.

(2) Where an allowance has been awarded to any person for a period ending before the date on which he attains pensionable age, any further claim for an allowance by, or in respect of, that person received before the end of that period, shall be treated as made for a period beginning immediately after the end of that period.

(3) Where, in accordance with the foregoing provisions of this regulation, a claim is made or treated as made, for a period beginning after the date on which it is received—

(*a*) the entitlement to an allowance of the person in respect of whom such claim is made shall be determined having regard to the physical disablement to which that person may be expected to be subject at the beginning of the period for which the claim is, or is treated as being, made; and

(*b*) if it appears that the conditions for entitlement to an allowance will be satisfied from the beginning of such period, an award of an allowance, to be payable from that date, may be made subject to the condition that, when the allowance becomes payable in accordance with such award, the person in respect of whom such a claim is made satisfies the requirements for entitlement to an allowance for which provision is made in section 37A or in these regulations, and if, at any time during the period for which such an award is made, any of those requirements are found not to have been satisfied, the award shall be reviewed.

Claim received within 3 months after the end of a period for which allowance awarded

6. Where an allowance has been awarded to any person for a period ending before the date on which he attains pensionable age and no further claim for an allowance made by, or in respect of, that person has been received by the Department before the end of that period, any further claim so made, which is received, or by virtue of regulation 4(1) is treated as received, by the Department on a date not more than 3 months after the end of that period, shall be treated as a claim for a period beginning immediately after the end of that period.

Obligations of persons in respect of whom allowances are claimed or awarded and disqualification for failure to comply

7.—(1) Subject to the following provisions of this regulation, every person, in respect of whom a claim for an allowance is made or to whom an allowance has been awarded, shall comply with every notice given to him by the Department which requires him either—

(*a*) to submit himself to a medical examination by a medical authority for the purpose of determining any medical question as defined in regulation 13(1); or

(*b*) to submit himself to such medical or other treatment as is available to him and is considered appropriate in his case by any medical authority to whose examination he has submitted himself in accordance with the foregoing provisions of this regulation, being treatment that may be expected to improve his condition so as to enable him to walk.

(2) Every notice given for the purposes of this regulation requiring a person to submit himself to medical examination shall be given in writing and shall specify the time and place of examination and shall not require a person to submit himself to examination on a date earlier than the third day after the day on which the notice is sent.