1975 No. 26

SOCIAL SECURITY

The Social Security (General Benefit) (Northern Ireland) Regulations 1975

Made . . . . . 13*th February* 1975

Coming into operation . . . 6*th April* 1975

The Department of Health and Social Services for Northern Ireland, in exercise of powers conferred by sections 32(3), 34(3), 35(4) and (5), and 99(9) of, the Social Security Act 1973(**a**) and paragraphs 2(1) and (2), 5, 7, 8(5) and 10 of Schedule 10 to that Act and by sections 80(3) and (4) of the National Insurance Act (Northern Ireland) 1966(**b**) 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 Social Security (General Benefit) (Northern Ireland) Regulations 1975 and shall come into operation on 6th April 1975.

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

"the Act" means the Social Security Act 1973;

"the 1966 Act" means the National Insurance Act (Northern Ireland) 1966 and references to a section of that Act are to the section as set out in Part IV of Schedule 25 to the Social Security Act 1973;

"the Industrial Injuries Act" means the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(**c**);

"the Department" means the Department of Health and Social Services for Northern Ireland;

"the determining authority" means, as the case may require, an insurance officer, a local tribunal or a National Insurance Commissioner by whom the relevant question falls to be determined by virtue of section 84(5) of the Act;

"the standard rate of increase" means the amount specified in Part III of Schedule 4 to the Act as the amount of an increase of the benefit in question for an adult dependant;

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

(3) Unless the context otherwise requires, any reference in these regulations—

(*a*) to a numbered section or Schedule is to the section of or, as the case may be, the Schedule to the Act bearing that number;

(*b*) to 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) 1973 c. 38
(b) 1966 c. 6 (N.I.)
(c) 1966 c. 9 (N.I.)

(*c*) to 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 it re-enacts or replaces, or which may re-enact or replace it, with or without modification.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**d**) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

Increase of benefit for wife

2.—(1) For the purposes of an increase of unemployment benefit or sickness benefit under section 34(1) (increase of certain short-term benefits in respect of adult dependants) or of an increase of a Category A or Category C retirement pension or an invalidity pension under section 35(1) (increase of long-term benefit in respect of adult dependants) two spouses shall not be deemed to have ceased to reside together by reason of any absence of either or both of them while receiving medical or other treatment as an in-patient in a hospital or similar institution, notwithstanding that such absence is not temporary.

(2) The provisions of this regulation shall apply to absence commencing before as well as after the date on which these regulations come into operation.

Increase of certain benefits for female person having care of child

3.—(1) The conditions set out in paragraph (2) shall be the prescribed further conditions for the purposes of section 34(3)(*c*) (increase of unemployment or sickness benefit or a maternity allowance in respect of a female person, not being a child, who has the care of a child of the beneficiary's family).

(2) The said conditions are that during the period in question the female person concerned—

(*a*) has the care of a child of the beneficiary's family as specified in section 34(3)(*c*), being a child in respect of whom he is entitled to an increase of benefit or would be so entitled but for the provisions of any regulations for the time being in force under the Act relating to overlapping benefits; and

(*b*) either—

(i) is residing with the beneficiary, or

(ii) is employed by him in an employment in respect of which the weekly expenses incurred by the beneficiary are not less than the standard rate of increase and was so employed by him before he became unemployed or incapable of work, as the case may be, subject to the qualification that the condition of employment before that event shall not apply in a case where the necessity for her employment first arose thereafter, or

(iii) is a person to whose maintenance the beneficiary is contributing at a weekly rate not less than the standard rate of increase; and

(*c*) is not undergoing imprisonment or detention in legal custody; and

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(**d**) 1889 c. 63

(*d*) is not employed in any employment (other than her employment by the beneficiary in caring for a child or children of the beneficiary's family) from which her weekly earnings (calculated or estimated in such manner and on such basis as is prescribed for the purposes of section 34(1)) exceed the standard rate of increase, so however that this condition shall not apply to a person who is employed by the beneficiary and is not residing with him; and

(*e*) is not absent from Northern Ireland, except in the case of sickness benefit for any period during which she is residing with the beneficiary outside Northern Ireland and for which, by virtue of the provisions of any regulations made under section 43(1), the beneficiary is not disqualified for receiving that benefit.

Increase of pension for female person having care of child

4.—(1) Section 35(3) (which provides for increases of a Category A or Category C retirement pension and an invalidity pension in respect of a female person, not being a child, who has the care of a child of the pensioner's family) shall not apply to any case where—

(*a*) the pensioner is not entitled to an increase of a retirement pension or an invalidity pension, as the case may be, in respect of a child or children of his family or of a child or children treated as such for the purposes of section 31 (increases of benefit for child dependants) and would still not be so entitled if any regulations for the time being in force under the Act relating to overlapping benefits were disregarded; or

(*b*) the said female person is not residing with the pensioner unless either—

(i) she is employed by him in an employment in respect of which the weekly expenses incurred by him are not less than the standard rate of increase, and either she was so employed by him before he became unemployed or incapable of work or retired from regular employment, as the case may be, or the necessity for her employment first arose thereafter, or

(ii) he is contributing to her maintenance at a weekly rate not less than the standard rate of increase and her earnings from any employment in which she is employed (other than her employment, if any, by him in caring for a child or children of his family) do not exceed that standard rate; or

(*c*) the said female person is undergoing imprisonment or detention in legal custody; or

(*d*) the said female person is absent from Northern Ireland, except for any period during which she is residing with him outside Northern Ireland and for which, by virtue of the provisions of any regulations made under section 43(1), he is not disqualified for receiving his pension.

(2) In a case to which section 35(3) applies and in which the female person is residing with the pensioner and the earnings of the female person (excluding her earnings, if any, from her employment by the pensioner in caring for a child or children of his family) for the calendar week ending last before any week for which the pensioner is entitled to the pension exceeded £13·00, the weekly rate of the increase of pension under section 35(3) shall for the last-mentioned week be reduced—

(*a*) where the excess is less than £4·00, by 5 pence for each complete 10 pence of the excess, and

(*b*) where the excess is not less than £4·00, by 5 pence for each complete 10 pence of the excess up to £4·00 and by 5 pence for each complete 5 pence of any further excess.

Provisions as to maintenance

5.—(1) Subject to paragraph (2), a beneficiary shall not for the purposes of Part I of the Act be deemed to be wholly or mainly maintaining another person unless the beneficiary—

(*a*) when unemployed, or incapable of work, or, as the case may be, retired from regular employment, contributes towards the maintenance of that person an amount not less than the amount of increase of benefit received in respect of that person; and

(*b*) when in employment, or not incapable of work, or, as the case may be, not so retired (except in a case where the dependency did not arise until after that time) contributed more than half of the actual cost of maintenance of that person.

(2) Where—

(*a*) a person is partly maintained by each of 2 or more beneficiaries (being beneficiaries entitled to benefit under the Act or the Industrial Injuries Act, of whom at least one is entitled to benefit under the Act), each of whom would be entitled to an increase of benefit under the relevant Act in respect of that person if he were wholly or mainly maintaining that person; and

(*b*) the contributions made by those 2 or more beneficiaries towards the maintenance of that person amount in the aggregate to sums which would, if they had been contributed by one of those beneficiaries, be sufficient to satisfy the requirements of this regulation,

that person shall for the purposes of the Act be deemed to be wholly or mainly maintained by that one of the said beneficiaries who makes the largest contribution or, if there is no such beneficiary, by the elder or eldest of the said beneficiaries, or, if a majority of them by notice in writing signed by them and addressed to the Department designate any one of their number, by that one designated so long as the beneficiary deemed to be so maintaining that person continues to be entitled to benefit under the Act and to satisfy the conditions contained in paragraph (1)(*a*).

(3) A notice and the designation contained in it given under paragraph (2) may be revoked at any time by a fresh notice signed by a majority of such beneficiaries, and another of their number may be designated, and accordingly the provisions of that paragraph shall apply to the one so last designated.

Contribution to maintenance of adult dependant

6.—(1) Subject to paragraphs (2) and (3), for the purposes of section 34(1) or 35(1) (increase of unemployment benefit, sickness benefit, an invalidity pension or a Category A or Category C retirement pension in respect of a wife) or of regulation 3(2)(*b*)(iii) or 4(1)(*b*)(ii) (increase of unemployment benefit, sickness benefit, an invalidity pension or a Category A or Category C retirement pension in respect of a female person having the care of a child of the beneficiary's family)—

(*a*) a beneficiary shall not be deemed to satisfy the requirement contained in section 34(1) or 35(1) or regulation 3(2)(*b*)(iii) or 4(1)(*b*)(ii) that he is contributing to the maintenance of the wife or female person,

as the case may be, at a weekly rate of not less than the standard rate of increase unless when in employment, or not incapable of work, or not retired from regular employment, as the case may be, (except in a case where the dependency did not arise until later) he contributed to her maintenance at a weekly rate of not less than the standard rate of increase;

(*b*) in a case where an increase of benefit is, apart from the said requirement, payable at a weekly rate less than the standard rate of increase, a beneficiary shall, subject to sub-paragraph (*a*), be deemed to satisfy the said requirement if he is contributing to the maintenance of the wife or female person, as the case may be, at a weekly rate of not less than that of the increase.

(2) Where, within one month of having been entitled to an increase of unemployment or sickness benefit under section 34(1), or under section 34(2) by virtue of having satisfied the requirement in head (iii) of sub-paragraph (*b*) of regulation 3(2) (but no other requirement in that sub-paragraph), a person becomes entitled to a benefit which attracts a standard rate of increase higher than that of the benefit to which he had been entitled, he shall be deemed to satisfy the condition in paragraph (1)(*a*) if he satisfies it in relation to the benefit to which he had been entitled; and in this paragraph "entitled" includes deemed to have been entitled.

(3) For the purposes of paragraph (2) a person shall be deemed to have been entitled to an increase of unemployment benefit or sickness benefit at a lower standard rate of increase if (assuming satisfaction of the relevant contribution conditions) he would have been so entitled but for the provisions of section 34(1)(*b*) or, as the case may be, regulation 3(2)(*d*).

Children treated as included in a family for increase of certain benefits

7. For the purposes of section 32(3) (treating certain children as included in a man's family for the purpose of an increase of unemployment benefit, sickness benefit, an invalidity pension or a Category A or Category C retirement pension), the prescribed rate shall be a rate equal to the rate specified in Part III of Schedule 4 as the amount of an increase of unemployment or sickness benefit for each additional qualifying child.

Contribution towards cost of providing for child

8.—(1) Where, apart from section 33(1), a person is entitled to receive, in respect of a particular child who is, or who falls to be treated for the purposes of the relevant provision as, a child of that person's family, payment of an amount by way of a guardian's allowance under section 22 or of a child's special allowance under section 29 or of an increase under any of the provisions of section 31 of any benefit for any period, and neither of the conditions set out in section 33(1), that is to say—

(*a*) that the child in question is living with the beneficiary; or

(*b*) that the requisite contributions are being made to the cost of providing for the child,

is satisfied, that person shall nevertheless for the purposes of section 33(1) be deemed as respects that period to be making the contributions so required at a weekly rate not less than that required by that section if—

(i) he gives an undertaking in writing to make such contributions, and

(ii) on receiving the amount of the allowance or increase in question, he in fact makes such contributions;