

## 1984 No. 278

## SOCIAL SECURITY

**The Supplementary Benefit (Requirements and Resources) (Amendment) Regulations (Northern Ireland) 1984**

*Made* . . . . . 6th August 1984

*Coming into operation* . . . . .

*Except for regulations 2(8), (9)(a), (11)(b), (c), (d) and (e)(ii) and 3(6)(a), (7)(c) and (9)* 6th August 1984

*Regulations 2(8), (9)(a), (11)(b), (c), (d) and (e)(ii) and 3(6)(a), (7)(c) and (9)* 26th November 1984

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(2) and 4(2) of, and paragraphs 1 and 2 of Schedule 1 to, the Supplementary Benefits (Northern Ireland) Order 1977(a) and of all other powers enabling it in that behalf, and with the consent of the Department of Finance and Personnel(b), hereby makes the following regulations which correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and which accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980(c) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

*Citation and commencement*

1. These regulations may be cited as the Supplementary Benefit (Requirements and Resources) (Amendment) Regulations (Northern Ireland) 1984 and shall come into operation on 6th August 1984, except for regulations 2(8), (9)(a), (11)(b), (c), (d) and (e)(ii) and 3(6)(a), (7)(c) and (9) which shall come into operation on 26th November 1984.

*Amendment of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983*

2.—(1) The Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983(d) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) (interpretation), in the definition of “the home” after “as their home” there shall be inserted “, being accommodation in Northern Ireland”.

(3) In regulation 5(5)(a) (normal requirements of relevant persons and householders), before “is responsible for” there shall be inserted “in respect of a home or, as the case may be, a household in Northern Ireland”.

(a) S.I. 1977/2156 (N.I. 27); see definitions of “prescribed” and “regulations” in Article 2(2); 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) Formerly the Department of Finance: see S.I. 1982/338 (N.I. 6), Article 3. See also Article 41(1) of the Supplementary Benefits (Northern Ireland) Order 1977, as amended by the Social Security (Northern Ireland) Order 1980

(c) 1980 c. 30

(d) S.R. 1983 No. 61; the relevant amending regulations are S.R. 1983 Nos. 215, 247, 291 and S.R. 1984 Nos. 79 and 174

(4) In regulation 9(2) (modification of normal requirements of boarders), for "rent allowance under the Housing Benefits Order" there shall be substituted "housing benefit".

(5) In regulation 10(6)(b) (modification of normal requirements in special cases)—

(a) "only" shall be omitted,

(b) after "limited leave" there shall be inserted "(as defined in section 33(1) of the Immigration Act 1971)(a)",

(c) after "remained" there shall be inserted "without further leave under that Act".

(6) In regulation 12(2)(g) (heating), for "the necessary heating of the home" there shall be substituted "the heating required by the assessment unit in the home".

(7) In regulation 16 (mortgage payments)—

(a) in paragraph (1), for the words from "the home" to the end there shall be substituted the following—

"the home—

(a) where section 26 of the Finance Act 1982(b) applies to payments of interest on the loan, the amount attributable to the interest which is payable after deduction of income tax at the basic rate, or

(b) where that section 26 does not apply to those payments, the amount attributable to the interest which is payable without deduction of income tax,

and in either case the amount shall be calculated on a weekly basis.";

(b) in paragraph (3)—

(i) in sub-paragraph (a), after "unmarried couple, A" there shall be inserted "either solely or jointly with B" and "his interest in" shall be omitted,

(ii) after "the amount of the interest on that mortgage" there shall be added "calculated as if it were a mortgage to which paragraph (1) applied";

(c) in paragraph (4) for the words from "calculated" to "that mortgage" there shall be substituted "of interest on that mortgage calculated as if it were a mortgage to which paragraph (1) applied".

(8) In regulation 17(1) (maintenance and insurance), for "costs of maintenance and insurance exceed" there shall be substituted "cost of insurance exceeds".

(9) In regulation 19 (miscellaneous outgoings)—

(a) after "shall" there shall be inserted " , except, in respect of those outgoings specified in sub-paragraphs (a) to (dd) of this paragraph where, in the opinion of the adjudication officer, it is impracticable to estimate the likely amount of the outgoings,";

(b) the following sub-paragraph shall be inserted after sub-paragraph (d)—

"(dd) where the home is a tent, payments in respect of the tent or the site on which it stands;".

(10) In regulation 20(7) (special cases), the following sub-paragraph shall be added after sub-paragraph (b)—

"(c) shall cease to apply where a pension or allowance ceases to be payable in respect of the assessment unit except that it shall reapply wherever a pension or an allowance again becomes payable within a period of 8 weeks or less."

(a) 1971 c. 77

(b) 1982 c. 39

(11) In regulation 22 (reduction in amounts applicable for certain occupants of the home)—

- (a) in paragraph (2), after “the amount” there shall be inserted “ascertained in accordance with paragraph (10) and”;
- (b) in paragraph (4)—
  - (i) in sub-paragraph (c)—
    - (aa) for head (i) there shall be substituted the following head—
      - “(i) where he is aged 16 or 17, £2·35,”
      - (bb) in head (ii) for “21” there shall be substituted “18”,
    - (ii) in sub-paragraph (d), for the words from “the amounts” to the end of that sub-paragraph there shall be substituted “the amount which would be applicable under sub-paragraph (c) to the head of that group or, where it would be a lesser amount, to his partner if the reference in that sub-paragraph were a reference to the head of the group or, as the case may be, his partner;”;
  - (c) in paragraph (5), the following sub-paragraph shall be added after sub-paragraph (g)—
    - “(h) for a non-dependant aged 16 or 17 who is in receipt of a non-contributory invalidity pension under section 36 of the Act, or for a group of non-dependants of which the head of the group is a person so aged and in receipt of such a pension.”;
  - (d) for paragraph (7), there shall be substituted the following paragraph—
    - “(7) Where the Department has, in accordance with sub-paragraph (c) of paragraph (6), been furnished with a statement signed by a non-dependant in the claimant’s home to the effect that the non-dependant fulfils the conditions set out in sub-paragraphs (a) and (b) of paragraph (6), the conditions set out in that sub-paragraph (c) shall be treated as having been fulfilled from the date when the non-dependant first satisfied the conditions set out in those sub-paragraphs (a) and (b).”;
  - (e) in paragraph (10)—
    - (i) in sub-paragraph (a)(i), for “regulation (4)(a)” there shall be substituted “paragraph (4)(a)”,
    - (ii) in sub-paragraph (a)(ii), for “regulation 4(b)” there shall be substituted “paragraph (4)(b)”, and after “be payable” there shall be added “or his partner”,
    - (iii) after sub-paragraph (a), the following sub-paragraph shall be inserted—
      - “(aa) in paragraph (2) the amount receivable from the letting is the amount, if any, by which the rent in respect of that letting exceeds the aggregate of all or any of the following amounts—
        - (i) the amount of the claimant’s eligible rent for the purposes of the Housing Benefits Regulations as ascertained in accordance with paragraph (2) of regulation 16 of those regulations as if sub-paragraph (d) of that paragraph were omitted,
        - (ii) the amount, if any, by which the rent in respect of that letting is reduced by virtue of paragraphs 10 and 11 of Schedule 3 to those regulations for the purpose of regulation 16(2)(d) thereof,
        - (iii) in a case to which regulation 21(2) or (3) of those regulations applies, the amount by which the claimant’s rate rebate is reduced by virtue of paragraph (2) or (3) of that regulation,
        - (iv) where no amounts fall to be aggregated under heads (i) to (iii) of this sub-paragraph, such amounts, if any, as, in the opinion of the

adjudication officer, are fairly attributable to rates, the provision of board, the provision of heating (other than hot water), hot water, lighting or cooking, and other services provided by the claimant in respect of which he does not himself pay rent, the amounts in respect of such other services being £2·70 where one of the services is the use of furniture, £1·35 in any other case, and £0·35 in respect of any garage or outbuilding for which rent is payable by the claimant;”.

(12) In Schedule 2 (Modification of Normal Requirements in Special Cases)—

(a) in paragraph 7, in column (1) for “further” there shall be substituted “as”;

(b) the following paragraph shall be added at the end of Schedule 2—

*“Certain married or unmarried couples*

11. Person who is a relevant person and who is temporarily separated from his partner where one partner is living in the home while the other partner is—

(a) resident in a nursing home as defined in section 10(1) of the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971(a) or in a private hospital within the meaning of Part IV of the Mental Health Act (Northern Ireland) 1961(b) so, however, that this sub-paragraph shall not apply to a patient as defined in regulation 2(1);

(b) resident in a home registered in accordance

11. Paragraphs 1 and 2 of the Table.

11. Either—

(a) their requirements assessed in accordance with paragraphs 1 and 2 of the Table; or

(b) the total of their requirements assessed as if each of them were a single person and, in the case of a partner who is temporarily resident in accommodation of a kind specified in regulation 10(5), as if his requirements were further modified in accordance with paragraph 1 of this Schedule,

whichever is the greater.

(a) 1971 c. 32 (N.I.)

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

with Article 35 of, and Schedule 5 to, the Health and Personal Social Services (Northern Ireland) Order 1972(a) (registration of homes for persons in need);

- (c) resident in accommodation provided by the Department under Article 7 (prevention of illness, care or after-care), 8 (care of mothers and young children), 15 (general social welfare) or 36 (accommodation for persons in need in premises maintained by certain persons) of the Health and Personal Social Services (Northern Ireland) Order 1972;
- (d) resident in premises used for the rehabilitation of alcoholics or drug addicts;
- (e) attending a course of training or instruction provided or approved by

(a) 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))

- the Department of Economic Development(a) where the course requires him to reside away from home;
- (f) living away from home in order to start new employment during the first 15 days of that employment or until his first receipt of earnings from that employment, whichever is the shorter period; or
- (g) in a probation or bail hostel approved for the purpose by the Secretary of State.”

(13) In Schedule 3, Part I (Additional Requirements for Heating), in paragraph 6, in column (I)—

(a) in sub-paragraph (a)(iii) after “Pensions Order 1978” there shall be added “or under Article 14 of the Personal Injuries (Civilians) Scheme 1983(b)”;

(b) the following head shall be added at the end of sub-paragraph (a)—

“(vi) mobility supplement under Article 26A of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(c) (including such a supplement under that Order by virtue of any other Scheme or Order) or under Article 25A of the Personal Injuries (Civilians) Scheme 1983; or”.

(14) In Schedule 3, Part II (Additional Requirements Other Than Heating) in paragraph 16, in column (I), after sub-paragraph(b) but not so as to form part of that sub-paragraph there shall be inserted “but, in a case to which only sub-paragraph(a) applies, no amount shall be allowed under this paragraph if a single payment for a washing machine has been made under any of the provisions of the Supplementary Benefit (Single Payments) Regulations (Northern Ireland) 1981(d) and the circumstances surrounding that single payment have not changed.”.

(a) Formerly the Department of Manpower Services. See S.I. 1982/846 (N.I. 11) Article 3

(b) S.I. 1983/686, as amended by S.I. 1983/1164, 1983/1540

(c) S.I. 1983/883, as amended by S.I. 1983/1116, 1983/1521

(d) S.R. 1981 No. 369; the relevant amending regulations are S.R. 1982 Nos. 240 and 295, S.R. 1983 Nos. 191, 215, 247, 290 and 349 and S.R. 1984 No. 266; see also S.R. 1984 No. 136

*Amendment of the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984*

3.—(1) The Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984(a) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2 (interpretation), after the definition of “partner” there shall be inserted the following definition—

““payment” includes payment in kind and references to periodical payments or lump sum payments shall be construed accordingly;”.

(3) In regulation 3(2) (calculation of resources), after sub-paragraph (g) there shall be added the following sub-paragraph—

“(h) any refund of tax relief under section 26 of the Finance Act 1982 due on a payment of interest on a loan for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home shall not be treated as a resource.”.

(4) In regulation 4 (notional resources)—

(a) in paragraph (7), for “12 months” there shall be substituted “2 years”;

(b) in paragraph (9)—

(i) after “partner, is a seasonal worker” there shall be inserted “or both of them are seasonal workers” and after “weeks in his” there shall be inserted “or their”,

(ii) in sub-paragraph (a), after “his” there shall be inserted “or their”,

(iii) in sub-paragraph (b), after “his” on both occasions where it appears there shall be inserted “or their” and for “applicable to him” there shall be substituted “applicable to the assessment unit”.

(5) In regulation 6(1)(k) (capital resources to be disregarded), for “12 months” there shall be substituted “2 years”.

(6) In regulation 9 (calculation of income resources)—

(a) in paragraph (1)(a), “and” shall be omitted and for “the earnings of any dependant being disregarded” there shall be substituted “and, subject to regulation 12, the earnings from remunerative full-time work of any dependant to whom regulation 10(1)(b) of the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1981(b) applies, any other earnings of any dependant being disregarded”;

(b) in paragraph (2)(e), for “earnings” on both occasions where it appears there shall be substituted “income” and for “are averaged” there shall be substituted “is averaged”.

(7) In regulation 10 (calculation of earnings)—

(a) for head (iv) of paragraph (3)(d), there shall be substituted the following head—

“(iv) a member of the Ulster Defence Regiment who is neither serving also as a member of any of the regular naval, military or air forces of the Crown, nor on the full-time permanent staff of that regiment in respect of training expenses;”;

(b) after head (iv) of paragraph (3)(d), there shall be inserted the following head—

(a) S.R. 1984 No. 54; the relevant amending regulations are S.R. 1984 No. 174

(b) S.R. 1981 No. 371; the relevant amending regulations are S.R. 1982 No. 240 and S.R. 1984 No. 266

- “(v) any member of any territorial or reserve force listed 2 to 8 in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979(a) in respect of training expenses or, if not in respect of training expenses, up to a maximum of £4 a week;”;
- (c) in paragraph (5), after “shall” there shall be inserted “, subject to regulation 12,”.
- (8) In regulation 11 (calculation of other income)—
- (a) in paragraph (2)—
- (i) in sub-paragraph (l), for “in respect of an industrial injury made in the first 6 months after such an injury” there shall be substituted “analogous to sickness benefit or invalidity benefit under the Act in respect of incapacity for work as a result of an industrial injury”;
- (ii) the following sub-paragraph shall be added at the end—
- “(s) any payment by way of compensation for loss of unemployment benefit under the Act.”;
- (b) in paragraph (4)(e) “or 43” shall be deleted;
- (c) in paragraph (5)(d), after “exceeds” there shall be inserted “the aggregate of” and for heads (i) and (ii) there shall be substituted the following heads—
- “(i) the aggregate of all or any of the amounts specified in heads (i) to (iv) of regulation 22(10)(aa) of the Requirements Regulations,
- (ii) the amount, if any, attributable to capital repayments by which the amount receivable from the letting falls to be reduced by virtue of paragraph (2) of that regulation 22,”;
- (d) in paragraph (5)(d), after head (ii) there shall be inserted the following head—
- “(iii) the amount, if any, by which the claimant’s housing requirements fall to be reduced by virtue of paragraph (2) of that regulation 22,”
- and head (iii) shall be renumbered as head (iv).
- (9) In regulation 12(1) (effect of income resources of dependants)—
- (a) in sub-paragraph (a), for “regulation 11” there shall be substituted “regulation 10 or 11”;
- (b) in sub-paragraph (b), after “application of” there shall be inserted “regulation 10(3), (4) and (5) or, as the case may be,”.
- (10) In regulation 13 (payments made by or derived from liable relatives)—
- (a) in paragraph (3) for “paragraph (4)” there shall be substituted “paragraph (3A) or (4)”;
- (b) after paragraph (3) there shall be inserted the following paragraph—
- “(3A) Where an instalment of a capital payment which falls to be paid by instalments is less than the weekly rate at which the capital payment as a whole would otherwise be attributable under paragraph (3), the instalment shall be taken into account in full as income for the week in which it is paid.”;
- (c) for paragraph (5) there shall be substituted the following paragraph—
- “(5) In this regulation “lump sum” means any sum except a periodical payment of income.”.

(a) S.I. 1979/591; the relevant amending instrument is S.I. 1980/1975

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 6th August 1984.

(L.S.)

*C. Davie*

Assistant Secretary

The Department of Finance and Personnel for Northern Ireland hereby consents to the foregoing regulations.

Sealed with the Official Seal of the Department of Finance and Personnel for Northern Ireland on 6th August 1984.

(L.S.)

*R. G. Smartt*

Assistant Secretary

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations amend the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983 (“the Requirements Regulations”) and the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984 (“the Resources Regulations”).

Amendments to the Requirements Regulations are made by regulation 2 and the main changes made to those regulations are as follows—

—regulations 2 and 5 are amended so that “home” and “householder” are confined to accommodation and households in Northern Ireland;

—the calculation of a person’s housing requirements in regulation 16 is revised to take account of mortgage interest paid net of tax;

—regulation 17 is amended so that any increase in the weekly amount for maintenance and insurance is payable only where the cost of insurance exceeds the prescribed amount;

—regulation 19 is amended to provide expressly for outgoings relating to a tent which is the claimant’s home and to provide that weekly amounts in respect of outgoings are not applicable where, in the adjudication officer’s opinion, it is not practicable to estimate the likely amount of these outgoings;

—regulation 20 is amended so that the limit on housing requirements set by paragraph (6) of that regulation comes back into operation on the resumption of benefit after a gap of less than 8 weeks;

—regulation 22 is amended so as to provide for — an amount to be deducted in certain circumstances from a claimant’s housing requirements in respect of a 16 or 17 year old occupant of the home and an increase in the amount to be deducted for an occupant of the home aged 18 to 20; only the balance, if any, of the rent received from a sub-tenant after various deductions to be set against a claimant’s housing requirements; a change in the arrangements for determining in certain circumstances the amount of the deduction from a claimant’s housing requirements;

—Schedule 2 is amended so as to make further provision for the requirements of a couple where one partner only is living in the home;

—Schedule 3 is amended to provide for the payment of a heating addition to persons in receipt of mobility supplement to a war pension.

Amendments to the Resources Regulations are made by regulation 3 and the major changes made to those regulations are as follows—

—the definition of payment in regulation 2 is clarified so as expressly to include payments in kind;

—a refund of tax relief under the provisions relating to payment of mortgage interest net of tax is to be ignored as a resource for the purposes of regulation 3;

—the period for which a trust fund consisting of damages for personal injury may be ignored as a notional resource for the purposes of regulation 4 is increased from 12 months to 2 years;

—the position of a couple both of whom are seasonal workers is clarified for the purposes of regulation 4;

—the earnings of a dependant in full-time work prior to the terminal date when he is no longer treated as receiving full-time education under the provisions of the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1981 are to be taken into account, for the purposes of regulation 9, up to the amount of his requirements;

—an additional £4 of a person's weekly earnings from any of the territorial or reserve forces listed 2 to 8 in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979 are to be ignored for the purposes of regulation 10;

—payments made as compensation for loss of unemployment benefit are to be taken into account in full for the purposes of regulation 11;

—the rent received from a sub-tenant is to be taken into account as a resource for the purposes of regulation 11 only to the extent that it exceeds amounts already taken into account for the purposes of calculating the claimant's housing benefit or assessing his housing requirements;

—for the purpose of calculating liable relative payments under regulation 13, the term "lump sum" is defined as any sum except a periodical payment of income.