

1984 No. 92

SOCIAL SECURITY

The Social Security (General Benefit) Regulations
(Northern Ireland) 1984

Made 21st March 1984

Coming into operation 1st May 1984

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The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 57(5), 58(3), 60(4) and (7), 61(1), 62(2), 67(1), 68(2), 70(2), 72(1) and (8), 74(1), 81(6), 82(5) and (6), 83(1), 85(1), 86(2) and (5), 90(2), 91(1), 119(3) and (4), 150(3) and 157(1) of, and paragraphs 2, 3 and 6 of Schedule 8, paragraphs 1 and 8 of Schedule 9, Schedule 14 and Schedule 17 to, the Social Security (Northern Ireland) Act 1975(a) and of all other powers enabling it in

(a) 1975 c. 15; see definitions of "prescribe" and "regulations" in Schedule 17. Section 68(2)(a) was amended by Article 23(1) of, and paragraph 25 of Schedule 4 to the Child Benefit (Northern Ireland) Order 1975 (S.I. 1975/1504 (N.I. 16)). Section 85(1) was amended by Article 23(1) of, and paragraph 29 of Schedule 4 to the Child Benefit (Northern Ireland) Order 1975. Section 86(2) was substituted by Article 8 of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)). Section 86(5) was amended by Article 23(1) of, and paragraph 30 of Schedule 4 to, the Child Benefit (Northern Ireland) Order 1975. Sections 90(2) and 91(1) were amended by Articles 38 and 39 of, and Schedules 4 and 5 to, the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16)). Section 119(3)(b) was amended by Article 16 of, and paragraph 8(a) of Schedule 3 to, the Social Security (Northern Ireland) Order 1979. Section 119(4)(c) was amended by Article 23(1) of, and paragraph 34 of Schedule 4 to, the Child Benefit (Northern Ireland) Order 1975 and by Article 16 of, and paragraph 8(b)(i) of Schedule 3 to, the Social Security (Northern Ireland) Order 1979. Section 119(4)(cc) was inserted by Article 3 of, and paragraph 12 of Part II of Schedule 1 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)). Section 119(4)(d) was amended by Article 16 of, and paragraph 8(b)(iii) of Schedule 3 to, the Social Security (Northern Ireland) Order 1979. Schedule 9, paragraph 1, was amended by Article 23(2) of, and Schedule 5 to, the Child Benefit (Northern Ireland) Order 1975

that behalf, hereby makes the following regulations, which only consolidate the regulations hereby revoked, and accordingly, by virtue of paragraph 20 of Schedule 3 to the Social Security Act 1980(a), are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (General Benefit) Regulations (Northern Ireland) 1984 and shall come into operation on 1st May 1984.

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

“the Act” means the Social Security (Northern Ireland) Act 1975;

“the Child Benefit Order” means the Child Benefit (Northern Ireland) Order 1975;

“child benefit” means benefit under Part II of the Child Benefit Order;

“determining authority” means, as the case may require, an insurance officer appointed under section 97(1), a local tribunal constituted under section 97(2), or the Chief Social Security Commissioner appointed under section 97(3) or any other Social Security Commissioner so appointed, or any Tribunal of Commissioners constituted under section 116(1);

“entitled to child benefit” includes treated as so entitled;

“industrial injuries benefit” means disablement benefit and industrial death benefit payable under section 50;

“parent” has the meaning assigned to it by Article 2(4) of the Child Benefit Order;

“the Workmen’s Compensation Acts” means the Workmen’s Compensation Acts (Northern Ireland) 1927 to 1943(b) or the enactments repealed by the Workmen’s Compensation Act (Northern Ireland) 1927(c) or the enactments repealed by the Workmen’s Compensation Act 1906(d);

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 is to the section of 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.

Exceptions from disqualification for imprisonment, etc.

2.—(1) The following provisions of this regulation shall have effect to except benefit from the operation of section 82(5)(b) which provides that (except where regulations otherwise provide) a person shall be disqualified for receiving any benefit and an increase of benefit shall not be payable in respect of any person as the beneficiary’s wife or husband, for any period during which that person is undergoing imprisonment or detention in legal custody (hereafter in this regulation referred to as “that section”):

(a) 1980 c. 30

(b) 1927 c. 16 (N.I.); 1931 c. 16 (N.I.); 1940 c. 18 (N.I.); 1941 c. 16 (N.I.); 1943 c. 6 (N.I.); 1943 c. 13 (N.I.)

(c) 1927 c. 16 (N.I.)

(d) 1906 c. 58

(2) That section shall not operate to disqualify a person for receiving sickness benefit, invalidity benefit, mobility allowance(a), widow's benefit, child's special allowance, maternity allowance, retirement pension of any category, age addition, non-contributory invalidity pension, disablement benefit or industrial death benefit, or to make an increase of benefit not payable in respect of a person as the beneficiary's wife or husband, for any period during which that person is undergoing imprisonment or detention in legal custody in connection with a charge brought or intended to be brought against him in criminal proceedings, or pursuant to any sentence or order for detention made by a court in such proceedings unless, in relation to him, a penalty is imposed at the conclusion of those proceedings or, in the case of default of payment of a sum adjudged to be paid on conviction, a penalty is imposed in respect of such default.

(3) That section shall not operate to disqualify a person for receiving any benefit (not being a guardian's allowance or a death grant), or to make an increase of benefit not payable in respect of a person as the beneficiary's wife or husband, for any period during which that person is undergoing detention in legal custody after the conclusion of criminal proceedings if it is a period during which he is liable to be detained in a hospital or similar institution in Northern Ireland as a person suffering from mental disorder unless—

- (a) pursuant to any sentence or order for detention made by the court at the conclusion of those proceedings, he has undergone detention by way of penalty in a prison, young offenders centre, a remand home or a training school; and
- (b) he was removed to the hospital or similar institution while liable to be detained as a result of that sentence or order, and, in the case of a person who is liable to be detained in the hospital or similar institution by virtue of any provision of the Mental Health Act (Northern Ireland) 1961(b), a direction restricting his discharge has been given under that Act and is still in force.

(4) Where, as respects a person in relation to whom each of the conditions specified in paragraph (3)(a) and (b) is satisfied, a certificate given by or on behalf of the Prison Governor and furnished to the Department shows the earliest date on which that person would have been expected to be discharged from detention pursuant to the said sentence or order if he had not been transferred to a hospital or similar institution, the said conditions shall be deemed not to be satisfied in relation to that person as from the day next following that date.

(5) That section shall not operate to disqualify a person for receiving a guardian's allowance or a death grant.

(6) Subject to paragraph (7), that section shall not operate to disqualify a person for receiving disablement benefit, other than any increase thereof, for any period during which he is undergoing imprisonment or detention in legal custody.

(7) The amount payable by virtue of paragraph (6) by way of any disablement pension or pensions in respect of any period, other than a period in respect of which that person is excepted from disqualification by virtue of the provisions of paragraph (3), during which that person is and has continuously been undergoing imprisonment or detention in legal custody, shall not exceed the total amount payable by way of such pension or all such pensions for a period of one year.

(8) For the purposes of this regulation—

- (a) "court" means any court in the United Kingdom, the Channel Islands or the Isle of Man or in any place to which the Colonial Prisoners Removal Act

(a) See the Social Security (Northern Ireland) Act 1975 c. 15 section 37A as inserted by the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) Article 24

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

1884(a) applies or any naval court-martial, army court-martial or air force court-martial within the meaning of the Courts-Martial (Appeals) Act 1968(b), or the Courts-Martial Appeal Court;

- (b) "hospital or similar institution" means any place (not being a prison, young offenders centre, a remand home or a training school and not being at or in any such place) in which persons suffering from mental disorder are or may be received for care or treatment;
- (c) "penalty" means a sentence of imprisonment, order of detention in a young offenders centre or sentence of detention under section 73 of the Children and Young Persons Act (Northern Ireland) 1968(c) or committal to custody in a remand home or a training school order;
- (d) in relation to a person who is liable to be detained in Northern Ireland as a result of any order made under the Colonial Prisoners Removal Act 1884, references to a prison shall be construed as including references to a prison within the meaning of that Act;
- (e) a person who is liable to be detained by virtue of any provision of the Mental Health Act (Northern Ireland) 1961 shall be treated as if a direction restricting his discharge had been given under that Act if for the purposes thereof he is to be so treated;
- (f) references to mental disorder shall be construed as including references to any mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961;
- (g) "training school" means a school approved under section 137 of the Children and Young Persons Act (Northern Ireland) 1968;
- (h) criminal proceedings against any person shall be deemed to be concluded upon his being found insane in those proceedings so that he cannot be tried or his trial cannot proceed.

(9) Where a person outside Northern Ireland is undergoing imprisonment or detention in legal custody and, in similar circumstances in Northern Ireland, he would have been excepted, by the operation of any of paragraphs (1) to (8), from disqualification under that section (referred to in paragraph (1)) for receiving the benefit claimed, he shall not be disqualified for receiving that benefit by reason only of his said imprisonment or detention.

(10) Paragraph (9) applies to increases of benefit not payable under that section as it applies to disqualification for receiving benefit.

Suspension of payment of benefit during imprisonment, etc.

3.—(1) Subject to the following provisions of this regulation, the payment to any person of any benefit—

- (a) which is excepted from the operation of section 82(5)(b) by virtue of the provisions of regulation 2(2), (5) or (6) or by any of those paragraphs as applied by regulation 2(9); or
- (b) which is payable otherwise than in respect of a period during which he is undergoing imprisonment or detention in legal custody;

shall be suspended while that person is undergoing imprisonment or detention in legal custody.

(2) Paragraph (1) shall not operate to require the payment of any benefit to be suspended while the beneficiary is liable to be detained in a hospital or similar

(a) 1884 c. 31
 (b) 1968 c. 20
 (c) 1968 c. 34 (N.I.)

institution as defined in regulation 2(8)(b) during a period for which in his case, benefit to which regulation 2(3) applies is or would be excepted from the operation of the said section 82(5)(b) by virtue of the provisions of regulation 2(3).

(3) A guardian's allowance, a death grant or any benefit to which paragraph (1)(b) applies may nevertheless be paid while the beneficiary is undergoing imprisonment or detention in legal custody to any person appointed for the purpose by the Department to receive and deal with any sums payable on behalf of the beneficiary on account of that benefit, and the receipt of any person so appointed shall be a good discharge to the Department and the National Insurance Fund for any sum so paid.

(4) Where, by virtue of this regulation, payment of benefit under Chapter IV or V of Part II of the Act is suspended for any period, the period of suspension shall not be taken into account in calculating any period under the provisions of regulation 22 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(a) (extinguishment of right to sums payable by way of benefit which are not obtained within the prescribed time).

Interim payments by way of benefit under the Act

4.—(1) Where, under arrangements made by the Department with the consent of the Department of Finance and Personnel, payment by way of benefit has been made pending determination of a claim for it without due proof of the fulfilment of the relevant conditions or otherwise than in accordance with the provisions of the Act and orders and regulations made under it, the payment so made shall, for the purposes of those provisions but subject to the following provisions of this regulation be deemed to be a payment of benefit duly made.

(2) When a claim for benefit in connection with which a payment has been made under arrangements such as are referred to in paragraph (1) is determined by a determining authority—

- (a) if that authority decides that nothing was properly payable by way of the benefit in respect of which the payment was made or that the amount properly payable by way of that benefit was less than the amount of the payment, it may, if appropriate, direct that the whole or part of the overpayment be treated as paid on account of benefit (whether benefit under the Act or the Supplementary Benefits (Northern Ireland) Order 1977(b)) which is properly payable, but subject as aforesaid shall require repayment of the overpayment; and
- (b) if that authority decides that the amount properly payable by way of the benefit in respect of which the payment was made equals or exceeds the amount of that payment, it shall treat that payment as paid on account of the benefit properly payable.

(3) Unless before a payment made under arrangements such as are mentioned in paragraph (1) has been made to a person that person has been informed of the effect of sub-paragraph (a) of paragraph (2) as it relates to repayment of an overpayment, repayment of an overpayment shall not be required except where the determining authority is satisfied that in the obtaining and receipt of such a payment the person to whom it has been made, and any person acting for him, has not throughout exercised due care and diligence to avoid overpayment.

(4) An overpayment required to be repaid under the provisions of this regulation shall, without prejudice to any other method of recovery, be recoverable by deduction

(a) S.R. 1977 No. 351, to which there are amendments not relevant to the subject matter of these regulations

(b) S.I. 1977/2156 (N.I. 27): 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

from any benefit then or thereafter payable to the person by whom it is to be repaid or any persons entitled to receive his benefit on his death.

Deduction of benefit required to be repaid

5. Where, in accordance with a decision given on a review or appeal or a decision under section 119(2A)(a) (repayment required where on facts subsequently established benefit would not have been paid) any benefit is required to be repaid to the Department, then, without prejudice to any other method of recovery, such benefit shall be recoverable by deduction from any benefit then or thereafter payable to the person by whom it is to be repaid or any persons entitled to receive his benefit on his death.

Set-off of benefit against earlier payment of dependency benefit

6. Benefit paid to one person in respect of another as being a child in respect of whom the payee is entitled to child benefit or as being the wife or husband, or an adult dependant of the first-mentioned person shall, unless it is required to be repaid, be treated as having been properly paid for any period for which it is not in fact payable in cases where under a subsequent decision either—

- (a) that other person is himself entitled to benefit for that period; or
- (b) a third person is entitled to benefit for that period in respect of that other person in priority to the first-mentioned person,

and any arrears of benefit payable for that period by virtue of the subsequent decision shall be reduced or withheld accordingly.

Repayment by a person who has received payment of benefit on behalf of a beneficiary

7.—(1) Subsections (1), (2) and (2A) of section 119 (effect of adjudication on payment and recovery) are modified in accordance with paragraphs (2) to (5) in relation to payments of benefit under the Act, other than mobility allowance, made not to the beneficiary but to some other person on his behalf.

(2) After the words “require repayment”, where they first occur in each of those subsections, there shall be inserted “to be made by the beneficiary”.

(3) At the end of subsection (1) there shall be added—

“and, subject to paragraphs (a) and (b), where benefit was paid to a person acting on behalf of the beneficiary that decision shall require repayment to be made to the Department by that person.”

(4) At the end of subsection (2) there shall be added—

“and shall not require repayment to be made by a person to whom any payment on behalf of the beneficiary was made where it is shown, to the satisfaction of the person or tribunal determining the appeal or review, that in the obtaining and receipt of the benefit the person to whom such payment was made has throughout used due care and diligence to avoid overpayment.”

(5) At the end of subsection (2A) there shall be added—

“and where payment in respect of such amount of benefit under the earlier decision was made to a person acting on behalf of the beneficiary, the subsequent decision shall require repayment to the Department under this subsection to be made by the person to whom the payment was made unless it is shown to the satisfaction of the insurance officer, tribunal or Commissioner that in the obtaining and receipt of the benefit that person throughout used due care and diligence to avoid overpayment.”

(a) Section 119(2A) was inserted by Article 9 of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5))

Rounding of sums payable by way of benefit

8. Except as otherwise provided where payment falls to be made of a sum payable by way of benefit and that sum is not a penny or a multiple thereof, the sum payable shall be paid by rounding the payment to the nearest penny, a half penny being rounded to the next penny above.

PART II

PROVISIONS RELATING TO BENEFIT OTHER THAN INDUSTRIAL INJURIES BENEFIT

Payments of benefit and suspension of payments pending a decision on appeals or references, arrears and repayments

9.—(1) Subject to the provisions of this regulation and regulation 21(2) of the Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975(a) benefit other than industrial injuries benefit shall be payable in accordance with an award, notwithstanding that an appeal against the award is pending and (subject also to the provisions of section 119 of the Act, regulation 27 of the Social Security (Determination of Claims and Questions) Regulations (Northern Ireland) 1975(b) and regulation 6 of these regulations) shall be treated as having been duly paid and shall not be recoverable under the provisions of the Act or otherwise.

(2) Subject to paragraph (4), where notice of an appeal by an insurance officer to the Social Security Commissioner from an award of a local tribunal is given or sent to the claimant within a period of 28 days beginning on the date when the insurance officer was given notice in writing of the local tribunal's decision, payment of the benefit (or that part of the benefit) to which the appeal relates shall, in the case of any of the following benefits, be suspended until the appeal has been determined—

- (a) unemployment benefit, provided the ground of the appeal is that the claimant ought to be disqualified for receiving benefit by reason of the provisions of section 19(1) (disqualification for unemployment benefit in respect of unemployment due to a trade dispute); and
- (b) maternity benefit, widow's benefit, attendance allowance, mobility allowance, child's special allowance, guardian's allowance, death grant, retirement pension of any category or age addition.

(3) Where leave is necessary for such an appeal and either—

- (a) application for leave having been made by an insurance officer to the chairman of the local tribunal, notice of that application is given or sent to the claimant within the 28 day period referred to in paragraph (2); or
- (b) such an application having been refused and an application for leave to appeal having been made by the insurance officer to the Social Security Commissioner, notice of the latter application is given or sent to the claimant within six weeks of the date on which the insurance officer was notified of the refusal of the chairman of the local tribunal to give leave to appeal;

payment of the benefit (or that part of the benefit) to which the application for leave to appeal relates shall, in the case of a benefit referred to in paragraph (2), be suspended until a decision on the application (whether refusing or allowing leave to appeal) is given.

(a) S.R. 1975 No. 280

(b) S.R. 1975 No. 100

(4) In a case where leave to appeal is given on an application referred to in paragraph (3), paragraph (2) shall have effect as if the 28 day period to which it refers began on the date on which notice was given to the insurance officer that leave to appeal had been given.

(5) Where a person who has received unemployment benefit in respect of certain days in a period of interruption of employment is subsequently awarded unemployment benefit in respect of earlier days in the same period and by virtue of section 18(1) (duration of unemployment benefit) benefit would become overpaid if the benefit due under the subsequent award were paid—

- (a) the benefit which would become overpaid shall be treated as having been paid in respect of an earlier period within that same period of interruption of employment, and the amount due to be paid under the subsequent award shall be reduced accordingly; and
- (b) for the purposes of section 18(2) (requalification for benefit) the last day for which the person concerned was entitled to benefit shall be the last day in respect of which, under the provisions of sub-paragraph (a), benefit is treated as having been paid.

(6) Where on appeal or review a decision is reversed or varied or revised and by reason thereof any sum on account of unemployment benefit is shown to have been paid to any person in respect of days for which he was not entitled to it, then, in determining for the purposes of section 18—

- (a) whether that person has exhausted his right to that benefit and what is the last day for which he was entitled to it—
 - (i) any day for which such sum has been so paid in pursuance of the original decision shall be treated as if it was a day for which that person was entitled to that benefit notwithstanding that that day is not treated as a day of unemployment because the person concerned is disqualified for receiving that benefit,
 - (ii) where any sum has been so paid to such a person and that sum or any part thereof is recovered, then there shall be excluded for the purposes of the said determination under the said section 18 a number of days (to the nearest whole number) equal to the number to be obtained by dividing the amount recovered by the daily rate at which the benefit was paid;
- (b) whether that person has requalified for benefit under the provisions of section 18(2), the last day for which he was entitled to the benefit shall be the last day in respect of which under sub-paragraph (a) he is treated as having been entitled to it.

(7) Where—

- (a) on appeal against an award of benefit, a decision is reversed or varied so that such benefit is not payable or is payable at a lower rate; and
- (b) on review, the decision on that appeal is revised so as to make such benefit payable, or payable at a higher rate, from a date before the decision on appeal,

any benefit paid in pursuance of the award before the decision on appeal shall, to the extent to which it would not have been payable if the decision on appeal had been given in the first instance, be treated as having been paid on account of any benefit made payable for the same period by the decision on review, except in so far as it has, in pursuance of the decision on appeal, been repaid or treated as paid on account of the benefit awarded by that decision.

Disqualifications to be disregarded for certain purposes

10.—(1) Subject to paragraph (2), where a person of any class mentioned in column (1) of Schedule 1 to these regulations would be entitled to the benefit set

opposite that class in column (2) of that Schedule but for the operation of any provision of the Act disqualifying him for the receipt of that benefit, that person shall be treated as if entitled to that benefit for the purpose of the provisions of the Act set opposite thereto in column (3) of the said Schedule and of any regulations made thereunder.

(2) For the purposes of determining whether the condition contained in section 79(1) (which makes a claim a condition of any person's right to any benefit) is satisfied, a person who would be entitled to any benefit but for the operation of any provision of the Act disqualifying him for the receipt of it, and who ceases to be so disqualified within a period of 3 months from the commencement of the disqualification, shall be treated as if entitled to it.

PART III

PROVISIONS RELATING TO INDUSTRIAL INJURIES BENEFIT ONLY

PRINCIPLES OF ASSESSMENT

Further definition of the principles of assessment of disablement and prescribed degrees of disablement

11.—(1) Schedule 8 to the Act (general principles relating to the assessment of the extent of disablement) shall have effect subject to the provisions of this regulation.

(2) When the extent of disablement is being assessed for the purposes of section 57, any disabilities which, though resulting from the relevant loss of faculty, also result, or without the relevant accident might have been expected to result, from a cause other than the relevant accident (hereafter in this regulation referred to as "the other effective cause") shall only be taken into account subject to and in accordance with the following provisions of this regulation.

(3) Any assessment of the extent of disablement made by reference to any disability to which paragraph (2) applies, in a case where the other effective cause is a congenital defect or is an injury or disease received or contracted before the relevant accident, shall take account of all such disablement except to the extent to which the claimant would have been subject thereto during the period taken into account by the assessment if the relevant accident had not occurred.

(4) Any assessment of the extent of disablement made by reference to any disability to which paragraph (2) applies, in a case where the other effective cause is an injury or disease received or contracted after and not directly attributable to the relevant accident, shall take account of all such disablement to the extent to which the claimant would have been subject thereto during the period taken into account by the assessment if that other effective cause had not arisen and where, in any such case, the extent of disablement would be assessed at not less than 11 per cent. if that other effective cause had not arisen, the assessment shall also take account of any disablement to which the claimant may be subject as a result of that other effective cause except to the extent to which he would have been subject thereto if the relevant accident had not occurred.

(5) Any disablement to the extent to which the claimant is subject thereto as a result both of an accident and a disease or two or more accidents or diseases (as the case may be), being accidents arising out of and in the course of, or diseases due to the nature of, employed earners' employment, shall only be taken into account in assessing the extent of disablement resulting from one such accident or disease being the one which occurred or developed last in point of time.

(6) Where the sole injury which a claimant suffers as a result of the relevant accident is one specified in column (1) of Schedule 2 to these regulations, whether or

not such injury incorporates one or more other injuries so specified, the loss of faculty suffered by the claimant as a result of that injury shall be treated for the purposes of section 57 of, and Schedule 8 to, the Act as resulting in the degree of disablement set against such injury in column (2) of the said Schedule 2 subject to such increase or reduction of that degree of disablement as may be reasonable in the circumstances of the case where, having regard to the provisions of the said Schedule 8 and to paragraphs (1) to (5) of this regulation, that degree of disablement does not provide a reasonable assessment of the extent of disablement resulting from the relevant loss of faculty.

(7) For the purposes of paragraph (6) where the relevant injury is one so specified in the said column (1) against which there is set in the said column (2) the degree of disablement of 100 per cent. and the claimant suffers some disablement to which he would have been subject whether or not the relevant accident had occurred, no reduction of that degree of disablement shall be required if the medical appeal tribunal, the medical board or single medical practitioner acting instead of a medical board (as the case may be) is satisfied that, in the circumstances of the case, 100 per cent. is a reasonable assessment of the extent of disablement resulting from the relevant loss of faculty.

(8) For the purposes of assessing, in accordance with the provisions of the said Schedule 8, the extent of disablement resulting from the relevant injury in any case which does not fall to be determined under paragraph (6) or (7), the medical appeal tribunal, the medical board or single medical practitioner acting instead of a medical board (as the case may be) may have such regard as may be appropriate to the prescribed degrees of disablement set against the injuries specified in the said Schedule 2.

DISABLEMENT BENEFIT

Amount of disablement gratuities

12.—(1) Where the extent of a claimant's disablement is assessed at any of the degrees of disablement severally specified in column (1) of Schedule 3 to these regulations, the amount of any disablement gratuity payable shall—

- (a) if the period taken into account by that assessment is limited by reference to the claimant's life or is not less than 7 years, be the amount calculated as the percentage of the maximum disablement gratuity (specified in paragraph 2 of Part V of Schedule 4 to the Act) which is shown in column (2) of Schedule 3 to these regulations as being appropriate to that degree of disablement;
- (b) in any other case, be the amount calculated as such a percentage of the maximum disablement gratuity as bears the same proportion to the percentage shown in column (2) of Schedule 3 to these regulations as being appropriate to that degree of disablement as the period taken into account by the assessment bears to a period of 7 years, a fraction of 5 pence being, for this purpose, treated as 5 pence.

(2) For the purposes of this regulation, whenever such maximum disablement gratuity is altered by virtue of the passing of an Act, the enactment of a Measure, or the making of an up-rating order, corresponding variations in the scale of gratuities payable under this regulation shall be payable only where the period taken into account by the assessment of the extent of disablement in respect of which the gratuity is awarded begins on or after the date of coming into operation of the provision altering the amount of the maximum disablement gratuity.

Weekly value of gratuity for purposes of reduction of increase of disablement benefit during hospital treatment

13. For the purpose of reducing the weekly rate of disablement pension payable by virtue of section 62 to a person awarded a disablement gratuity wholly or partly in respect of the same period, the weekly value of the gratuity shall be the weekly rate of disablement pension which would be payable to that person in lieu thereof in accordance with regulation 16(2) if that regulation applied to his case.

Earnings level for the purpose of unemployment supplement under section 58

14. For the purpose of section 58(3) (earnings level that does not disqualify for unemployment supplement) the prescribed amount of earnings in a year shall be £1,170.

INCREASE OF DISABLEMENT BENEFIT

Circumstances in which, for the purposes of section 60, a beneficiary may be treated as being incapable of following an occupation or employment notwithstanding that he has worked thereat

15.—(1) For the purposes of section 60 (increase of disablement pension for special hardship), when it is being determined whether a beneficiary has at all times since the end of the period of 90 days referred to in section 57(4) been incapable of following his regular occupation or employment of an equivalent standard which is suitable in his case, and in determining that question only, the fact that since the end of that period of 90 days such beneficiary had worked at that occupation or any such employment (as the case may be)—

(a) for the purpose of rehabilitation or training or of ascertaining whether he had recovered from the effects of the relevant injury; or

(b) before obtaining surgical treatment for the effects of the said injury;

shall be disregarded in respect of the periods specified in paragraph (2).

(2) The periods during which the beneficiary worked at his regular occupation or at employment of equivalent standard, which shall be disregarded in accordance with the provision of paragraph (1), shall be—

(a) in any case to which paragraph (1)(a) applies—

(i) any period during which he worked thereat for any of the said purposes with the approval of the Department or on the advice of a medical practitioner, and

(ii) any other period or periods during which he worked thereat for any of the said purposes and which did not exceed six months in the aggregate; and

(b) in any case to which paragraph (1)(b) applies—

(i) any period during which he worked thereat and throughout which it is shown that having obtained the advice of a medical practitioner to submit himself to such surgical treatment he was waiting to undergo the said treatment in accordance therewith, and

(ii) any other period during which he worked thereat and throughout which it is shown that he was in process of obtaining such advice.

Payments in respect of special hardship where beneficiary is entitled to a gratuity

16.—(1) Where in any case a beneficiary is entitled to or has received a disablement gratuity, such beneficiary shall as respects that gratuity have the like

rights to payments in respect of special hardship as he would have had by way of increase of disablement pension under section 60 if the disablement gratuity had been a disablement pension payable during the period taken into account by the assessment.

(2) A beneficiary who is entitled as respects a disablement gratuity to payments in respect of special hardship by virtue of paragraph (1) shall, if he makes an application in that behalf at any time before that gratuity or any part thereof has been paid to him, be entitled, subject to the proviso to section 57(6), to a disablement pension in lieu of such gratuity for any part of the period taken into account by the assessment during which he may be entitled to an increase of such pension in respect of special hardship under section 60, and the weekly rate of such pension shall be determined in accordance with Schedule 4 to these regulations.

(3) For the purposes of paragraph (2) and notwithstanding the provisions of regulation 12(2), whenever the weekly rate of such pension is altered consequent upon the passing of an Act, the enactment of a Measure, or the making of an up-rating order, such variation shall have effect as from the date on which the provision varying the amount of the disablement pension specified in paragraph 3 of Part V of Schedule 4 to the Act comes into force, whether the period taken into account by the assessment began before or after that date.

(4) Where a pension has been payable under paragraph (2) in lieu of a gratuity for any period and the beneficiary ceases to be entitled to an increase of such pension under the provisions of section 60, the amount of that gratuity shall be treated as reduced by the amounts which have been paid to the beneficiary by way of such pension, other than any increase thereof under the said section 60 and, subject to the provisions of these regulations, the balance (if any) shall then be payable accordingly.

Increase of disablement pension for constant attendance

17. The amount by which the weekly rate of disablement pension may be increased under section 61 where constant attendance is required by a beneficiary as a result of the relevant loss of faculty shall—

- (a) where the beneficiary (not being a case to which paragraph (b) relates) is to a substantial extent dependent on such attendance for the necessities of life and is likely to remain so dependent for a prolonged period, be the amount specified in paragraph 7(a) of Part V of Schedule 4 to the Act (unless the attendance so required is part-time only, in which case the amount shall be such sum as may be reasonable in the circumstances) or, where the extent of such attendance is greater by reason of the beneficiary's exceptionally severe disablement, a sum not exceeding one and a half times the amount specified in the said paragraph 7(a), a fraction of 5 pence being, for this purpose, treated as 5 pence;
- (b) where the beneficiary is so exceptionally severely disabled as to be entirely, or almost entirely, dependent on such attendance for the necessities of life, and is likely to remain so dependent for a prolonged period and the attendance so required is whole-time, be the amount specified in paragraph 7(b) of Part V of the said Schedule 4.

Determination of degree of disablement for constant attendance allowance

18.—(1) For the purpose of determining whether a person is entitled to an increase by way of constant attendance allowance under section 61 or to a corresponding increase by virtue of section 150(3)(b) of any other benefit, the Department shall, in a case where that person is subject to disabilities in respect of

which payments of two or more of the descriptions set out in paragraph (2) fall to be made, determine the extent of that person's disablement by taking into account all such disabilities to which that person is subject.

(2) The payments which may be taken into account are those of the following descriptions—

- (a) payments by way of disablement pensions under the Act;
- (b) weekly payments to which that person is or has been at any time after 4th July 1948 entitled in respect of injury or disease being payments by way of compensation under the Workmen's Compensation Acts;
- (c) payments by way of benefit under the Industrial Injuries and Diseases (Old Cases) Act 1975(a); and
- (d) payments of personal benefit by way of disablement pension or gratuity under any Personal Injuries Scheme or Service Pensions Instrument or 1914-1918 War Injuries Scheme.

(3) In paragraph (2)(d) the expressions "personal benefit", "disablement pension", "Personal Injuries Scheme" and "Service Pensions Instrument" and "1914-1918 War Injuries Scheme" have the meanings which are assigned to them by the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(b) for the purposes of those regulations.

Condition for receipt of increase of disablement pension for constant attendance under section 61 while receiving medical treatment as an in-patient

19.—(1) For the purposes of section 61 (increase of disablement pension in respect of the need of constant attendance), subject to paragraph (2) it shall be a condition for the receipt of an increase of disablement pension under that section for any period in respect of any person that during that period he is not receiving, or has not received, free in-patient treatment, and for this purpose a person shall be regarded as receiving or having received free in-patient treatment if he would be so regarded for the purposes of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(c).

(2) Where a person was entitled to an increase of disablement pension under the said section 61 in respect of the period immediately before he commenced to undergo any treatment mentioned in paragraph (1), that paragraph shall not apply in respect of the first 4 weeks of any continuous period during which he is undergoing such treatment.

(3) For the purposes of paragraph (2), two or more distinct periods separated by an interval not exceeding 28 days, or by two or more such intervals, shall be treated as a continuous period equal in duration to the total of such distinct periods and ending on the last day of the later or last such period.

Treatment of distinct periods of hospital in-patient treatment as continuous for the purposes of section 62

20. For the purposes of section 62 (increase of disablement benefit during hospital treatment) a person who receives medical treatment as an in-patient for two or more distinct periods separated by an interval of less than a week in each case shall be treated as receiving such treatment continuously from the beginning of the first period until the end of the last.

(a) 1975 c. 16

(b) S.R. 1979 No. 242; the relevant amending regulations are S.R. 1980 No. 451

(c) S.R. 1975 No. 109, to which there are amendments not relevant to the subject matter of these regulations

INDUSTRIAL DEATH BENEFIT

Widow's pension

21. Section 67 (death benefit for widows) shall have effect as if the reference in section 67(1) (conditions of entitlement to such benefit) to periodical payments of not less than the prescribed amount were a reference to periodical payments which would amount to an average weekly rate of not less than 25 pence.

Additional entitlement to higher permanent rate of widow's pension under section 67

22.—(1) The provisions of paragraph (2) shall apply in determining whether a woman is entitled to industrial death benefit at the higher permanent rate specified in paragraph 13(b) of Part V of Schedule 4 to the Act by virtue of satisfying the requirement in section 68(2)(a) (higher weekly rate of industrial death benefit payable to the widow of the deceased for a period for which she is entitled or treated as entitled to an allowance under section 70 (industrial death benefit for children)).

(2) The widow of the deceased shall be treated as entitled to an allowance under the said section 70 for any period during which she is residing with a person under the age of 19 in respect of whom the deceased—

- (a) at his death was entitled to child benefit; or
- (b) at the time of his death could have been entitled to child benefit or treated as having been so entitled had that person then been under the age of 16 or not absent from Northern Ireland; and,

where, at the expiration of such a period as aforesaid, the widow has attained the age of forty, she shall be treated as entitled to that allowance for any period thereafter.

Widows to be treated as entitled to a pension for the purposes of a right to a remarriage gratuity

23. A widow who would be entitled to a pension under section 67 immediately before her remarriage but for the operation of the proviso to section 67(2) shall be treated as if she were entitled thereto for the purpose of a right to a gratuity under section 67 on her remarriage.

Death benefit for relatives

24. For the purposes of section 72 (death benefit for such relatives of a deceased employed earner as may be prescribed) the relatives shall be the persons who bear any such relationship to the deceased as is specified in Schedule 5 to these regulations (otherwise than as a parent within the meaning of section 71 (death benefit for parents)), and shall include any person who is such a relative by adoption and any person who would be such a relative if some person born illegitimate had been born legitimate.

Death benefit under section 72 for a posthumous son or daughter

25. The provisions of section 72 shall apply to a posthumous son or daughter (whether legitimate or illegitimate) of a deceased man as if—

- (a) for the conditions specified in subsection (1) of that section there were substituted the condition that the mother of such son or daughter was at the deceased's death being wholly or mainly maintained by the deceased, or would but for the relevant accident have been so maintained; and
- (b) the conditions specified in paragraphs (a) and (b) of subsection (2) of that section, and every reference to death benefit by way of a gratuity or an allowance and to the several conditions for the receipt of such benefit, were omitted; and
- (c) in subsection (7) of that section—

- (i) the references to a relative who was a child at the deceased's death were references to a relative who is a posthumous son or daughter of the deceased, and
- (ii) for paragraph (b) there were substituted the following paragraph—
 “(b) unless such relative is on ceasing to be a child permanently incapable of self-support by reason of some physical or mental infirmity which is congenital in origin;”.

Calculation of the amount of parent's or relative's gratuity

26. For the purposes of section 74(1)(b) (amount of death benefit payable by way of a gratuity to a beneficiary as a parent or relative other than a beneficiary who, at the deceased's death, was, or would but for the relevant accident have been, wholly maintained by the deceased) the maximum amount of any such gratuity payable to a beneficiary as a parent within the meaning of section 71 or as a relative prescribed for the purposes of section 72 shall be determined in accordance with the provisions of Schedule 6 to these regulations.

Application of limits imposed on death gratuities by Schedule 9 to the Act

27. In any case in which, but for the provisions of paragraph 6 of Schedule 9 to the Act (provisions limiting the amount of death benefit by way of gratuities payable in respect of any death), the aggregate amount of death benefit which would be payable to two or more persons by way of parents' or relatives' gratuities, as the case may be, would exceed the total amount respectively specified in relation to such gratuities in sub-paragraphs (1) and (2) of the said paragraph 6, being—

(a) £78 in relation to parents' gratuities; and

(b) £52 or £104 (as the case may be) in relation to relatives' gratuities;

the amount payable to any person by way of a parent's or a relative's gratuity (as the case may be) shall, subject to the provisions of the Act limiting the amount so payable to any one person, be determined in accordance with the provisions of Schedule 7 to these regulations.

Death within prescribed period

28. For the purposes of Schedule 9 to the Act (provisions limiting the benefit payable in respect of any death), and by virtue of the provisions of paragraph 8 of that Schedule, a person entitled, or who may become entitled, to any benefit mentioned in that Schedule in respect of any death shall be disregarded if he dies within 6 months after the deceased's death without being awarded that benefit.

Priority of title to allowance or allowances under section 70

29. Where in respect of the same death each of two or more persons satisfies the conditions of section 70 for the receipt of an allowance in respect of the same child, the person entitled to the allowance shall, as between such persons, be determined subject to the provisions of paragraph 1(c) of Schedule 9 to the Act in accordance with the order of priority specified in Schedule 8 to these regulations.

Circumstances in which higher rate of allowance under section 70(2) is payable to a person other than the widow of the deceased

30.—(1) For the purposes of section 70(2) (industrial death benefit at higher rate) for any period during which the conditions of paragraph (2) are satisfied, a person, not being the widow of the deceased person, who is entitled to an allowance in respect of a child under section 70(1) shall be entitled to that allowance at the higher rate referred to in the said section 70(2).

(2) The conditions referred to in paragraph (1) are—

- (a) that the widow of the deceased is entitled to benefit under sections 67 and 68 in respect of the death of the deceased person; and
- (b) that the said widow was, immediately before the period referred to in paragraph (1), entitled to the higher rate of allowance provided for in section 70(2) in respect of the child; and
- (c) that the said widow has not ceased to reside with the child.

Circumstances in which a deceased person who was not entitled to child benefit is to be treated as having been so entitled for the purposes of section 70 or 73

31.—(1) A deceased person shall be treated, for the purposes of section 70 or 73 as having been entitled to child benefit in respect of a child at his death, or as the case may be, throughout the period between the date of the relevant accident and his death, if—

- (a) that child was a legitimate son or daughter of the deceased and either the deceased or his spouse was living with the child or was contributing towards the cost of providing for the child at the appropriate rate or the deceased would, but for the relevant injury or disease, have so contributed; or
- (b) the child was an illegitimate son or daughter of the deceased and the deceased was either living with the child or was contributing towards the cost of providing for the child at the appropriate rate or would, but for the relevant injury or disease, have so contributed; or
- (c) the child, not being a son or daughter of the deceased, was wholly or mainly maintained by the deceased or would, but for the relevant injury or disease, have been so maintained; or
- (d) the child, not being a son or daughter of the deceased, was living at the time of the deceased's death with the deceased's spouse or was being maintained by that spouse at the appropriate rate and he or she was a child who at the time of the death of a person to whom the deceased's spouse had previously been married (and whose marriage to the deceased's spouse had been terminated by death) had been living with or maintained at the appropriate rate by that person; or
- (e) the child was a posthumous legitimate child of the deceased.

(2) The expression "appropriate rate" in paragraph (1) means a weekly rate not less than the rate which would have been payable as child benefit in respect of that child.

Circumstances in which a deceased person is to be treated as not having been entitled to child benefit for the purposes of section 68 or 70

32. Notwithstanding that he was at his death entitled to child benefit in respect of a child, a deceased person shall be treated, for the purposes of section 68 (rate of widow's industrial death benefit) or section 70 (industrial death benefit for children) as having been not so entitled if—

- (a) that child was not his son or daughter; and
- (b) neither of the conditions set out in sub-paragraph (c) or (d) of paragraph (1) of regulation 31 was fulfilled in relation to him; and
- (c) the child was not a step-child of the deceased.

Circumstances in which a person is to be treated as if he were entitled to child benefit for the purposes of section 70

33.—(1) Any person to whom section 70 (industrial death benefit for children) applies shall, for the purposes of that section, be treated as if he were entitled to child benefit in respect of a child if the period in question is one throughout which—

- (a) that person, or his spouse with whom he is residing, would have been entitled to child benefit in respect of that child had the child been born at the end of the week immediately preceding the week in which birth occurred; or
- (b) that person satisfies the conditions for entitlement to child benefit with the exception only of a condition in Article 8(2) or Article 15(3)(b) of the Child Benefit Order (period for which claim to child benefit may be effective and condition relating to presence in Northern Ireland respectively) or regulation 5 of the Child Benefit (Residence and Persons Abroad) Regulations (Northern Ireland) 1976(a).

(2) For the purpose of determining whether a person is entitled to industrial death benefit for a child under section 70, where in respect of a child the said benefit is payable to a person for a continuous period of 7 days and would have been payable to that person for the immediately preceding 7 days had he been entitled to child benefit in respect of that child for an earlier week, he shall be treated as if he were entitled to child benefit for that earlier week.

(3) The expression "earlier week" in paragraph (2) means the week immediately preceding the first week for which the person referred to in that paragraph was entitled to child benefit in respect of the child referred to in that paragraph.

(4) For the purposes of paragraph (1) the word "week" has the meaning assigned to it by Article 2(2) of the Child Benefit Order.

Circumstances in which a person entitled to child benefit is to be treated as if he were not so entitled

34. For the purposes of section 70 (industrial death benefit for children) a person who is entitled to child benefit in respect of a child shall be treated as if he were not so entitled for any day following the day on which that child died.

Provisions as to maintenance for purposes of death benefit

35.—(1) For the purposes of the provisions of Chapters IV and V of Part II of the Act which relate to death benefit, a deceased person shall not, subject to the provisions of paragraph (2), be deemed to have been, at his death, or for any period before his death—

- (a) wholly maintaining another person unless he normally contributed the whole of the actual cost of that other person's maintenance;
- (b) mainly maintaining another person unless he normally contributed more than half of the actual cost of that other person's maintenance;
- (c) to a substantial extent maintaining another person unless he normally contributed not less than an average weekly amount of 25 pence towards the cost of that other person's maintenance.

(2) In the case of a posthumous son or daughter of the deceased, such son or daughter shall be deemed to have been wholly maintained by the deceased at his death if the condition specified in regulation 25(a) is satisfied in his case.

(3) Where—

- (a) a person was partly maintained by each of two or more employed earners of whom the first-mentioned person was a parent within the meaning of section 71 or a relative prescribed for the purposes of section 72, as the case may be; and
- (b) the employed earners have died as the results of accidents arising out of and in the course of their employed earner's employment;

the parent or relative may by notice in writing designate one of those employed earners and shall thereafter be treated as having received from the person so designated contributions to his maintenance equal to the aggregate amount which the said employed earners were together contributing before the accidents happened, and as having received nothing from the others.

ADJUSTMENT OF BENEFIT FOR SUCCESSIVE ACCIDENTS

Adjustment of benefit for successive accidents where a disablement gratuity is payable

36.—(1) In a case where—

- (a) a person who is entitled, as a result of an accident, to a disablement pension (hereafter in this paragraph referred to as an "existing pension") which is payable in respect of an assessment for a period which is limited by reference to that person's life, becomes as a result of any other accident, entitled to an award as a result of an assessment of disablement in respect of which a disablement gratuity would, but for this regulation, be payable; and
- (b) the aggregate amount of the assessment in respect of the existing pension and of the assessment in respect of which such disablement gratuity would be payable would, if it were the amount of the assessment of the extent of the disablement resulting from any one accident suffered by that person, have entitled him to receive a disablement pension at a higher rate than the rate of such existing pension;

then, if, at any time before his claim for disablement benefit is determined, he so elects, that person shall be entitled to a disablement pension in lieu of the said disablement gratuity at a rate equal to the difference between the said higher rate and the rate of the existing pension.

(2) In a case in which a person who is entitled as a result of any accident to a disablement pension would but for the provisions of this paragraph become entitled in respect of any other accident to a disablement gratuity (not being a case in which he is entitled to a disablement pension in lieu of such gratuity)—

- (a) if the assessment in respect of which such pension is payable to him amounts to not less than 100 per cent., such person shall not be entitled to receive any disablement gratuity in respect of such other accident;
 - (b) in any other case, such person shall not be entitled to receive, by way of disablement gratuity in respect of such other accident, an amount exceeding that which would be payable in respect of an assessment equal to the difference between 100 per cent. and the percentage of the assessment in respect of which such pension is payable to him.
- (3) For the respective purposes of paragraphs (1) and (2)—
- (a) references to an existing pension within the meaning of paragraph (1) and to any disablement pension in paragraph (2) shall include references to all such pensions which may be payable to the person concerned, and references to the amount of the assessment in respect of which, and the rate at which, any such pension is payable shall include references to the aggregate amount of the assessments in respect of which, or the aggregate of the rates at which, all such pensions are payable as aforesaid;
 - (b) the extent by which an assessment is increased by virtue of the provisions of section 62 (increase of disablement benefit during hospital treatment) shall be disregarded;
 - (c) for the purposes of paragraph (1)(a) a person shall be deemed to be entitled to a disablement pension and to an award as described in the said paragraph from the respective dates of commencement of the periods taken into account by the assessments relating to such pension and to such award.

Adjustment of increase of benefit in respect of successive accidents

37.—(1) Where a person who is entitled to a disablement pension in respect of any accident suffered by him—

- (a) has received, or is entitled to, a disablement gratuity in respect of any other accident; and
- (b) as a result of the loss of faculty in respect of which he has received, or is entitled to, that gratuity, is incapable of work and is likely to remain permanently so incapable;

the provisions of section 58 (increase of disablement pension by way of unemployability supplement) shall apply as if that loss of faculty resulted from the accident in respect of which such disablement pension is payable.

(2) Where a person—

- (a) would be entitled to a disablement pension in respect of any accident but for the provisions of section 91(1)(a) (limitations on the aggregate weekly rates of benefit payable for the same period in respect of successive accidents); and
- (b) by reason only of those provisions, is unable to satisfy the conditions for the receipt of an increase of that pension by way of unemployability supplement under section 58;

the provisions of the said section 58 shall apply as if such disablement pension were payable to that beneficiary.

(3) At any time at which the sum total of the several assessments in respect of two or more accidents suffered by any person amounts to not less than 100 per cent. during the continuance of the periods respectively taken into account thereby, the weekly rate of any disablement pension which is payable to him may be increased in accordance with the provisions of section 61 if he requires constant attendance as a result of the loss of faculty resulting from any one or more of such accidents, whether or not that pension is payable in respect of an assessment of 100 per cent. or in respect of that loss of faculty.

(4) A beneficiary who has suffered two or more accidents shall not be entitled at any time to more than one of each of the following increases of benefit, that is to say—

- (a) by way of unemployability supplement, under section 58;
- (b) in respect of the need of constant attendance, under section 61;
- (c) in respect of a child, under section 64;
- (d) in respect of an adult dependant, under section 66.

DISQUALIFICATION FOR RECEIPT OF BENEFIT AND SUSPENSION OF BENEFIT PENDING APPEALS, ETC.

Disqualification for receipt of benefit, suspension of proceedings on claims and suspension of payment of benefit

38.—(1) If, without good cause—

- (a) a claimant fails to furnish to the prescribed person any information required for the determination of a claim or of any question arising in connection therewith; or
- (b) a beneficiary fails to give notice to the prescribed person of any change of circumstances affecting the continuance of the right to benefit or to the receipt thereof, or to furnish as aforesaid any information required for the determination of any question arising in connection with the award; or
- (c) a claimant for, or a beneficiary in receipt of, disablement benefit fails to comply with any requirement of regulation 26 of the Social Security (Claims

and Payments) Regulations (Northern Ireland) 1977(a) (obligations of claimants for, and beneficiaries in receipt of disablement benefit);

he shall, subject to the following provisions of this regulation, if the determining authority so decides, be disqualified for receiving any benefit claimed in respect of the period of such failure.

(2) If a claimant or beneficiary wilfully obstructs, or is guilty of other misconduct in connection with any examination or treatment to which he is required under the said regulation 26 to submit himself, or any proceedings under the Act for the determination of his right to benefit or to the receipt thereof, he shall, subject to the provisions of this regulation, be disqualified for receiving any benefit claimed for such period as the determining authority shall determine.

(3) In any case to which any of paragraphs (1) and (2) relate, proceedings on the claim or payment of benefit, as the case may be, may be suspended for such period as the determining authority may determine.

(4) Nothing in this regulation providing for the disqualification for the receipt of benefit for any of the following matters, that is to say—

- (a) for failure to comply with the requirements of the said regulation 26;
- (b) for obstruction of, or misconduct in connection with, medical examination or treatment;

shall authorise the disentitlement of a claimant or beneficiary to benefit for a period exceeding 6 weeks on any disqualification.

(5) No person shall be disqualified for receiving any benefit for refusal to undergo a surgical operation not being one of a minor character.

(6) A person who would be entitled to any benefit but for the operation of any of the provisions of paragraphs (1) to (5) shall be treated as if he were entitled thereto for the purpose of any rights or obligations under the Act (whether of himself or any other person) which depend on his being so entitled, other than the right to payment of that benefit.

Suspension of payment of benefit pending appeals or references

39.—(1) So much of a pension or of an allowance or of an increase of disablement benefit as is awarded in respect of a period before the date of the award shall not be payable until after the expiration of a period of 28 days from that date (or, in the case of an award of a local tribunal, within a period of 28 days from the date when the insurance officer is given notice in writing of the local tribunal decision) and if before the expiration of that period an appeal from the award or from any decision on which the award was based has been brought (or, in the case of an appeal by an insurance officer, notice of appeal has been given or sent to the claimant) until after the decision on that appeal is given; and a gratuity or any part thereof shall not be payable until after the expiration of the time limited for an appeal from the award thereof, or from any decision on which the award was based and, where any such appeal is brought, until after the decision on that appeal is given:

Provided that—

- (i) this paragraph shall not apply to an award made by an insurance officer of disablement benefit (including any increase thereof) based upon the decision of a medical appeal tribunal or of death benefit (other than a gratuity), or to any award of benefit made by the Commissioner,
- (ii) during the period intervening between the award of a gratuity under section 71 or 72 or under Schedule 9 to the Act and the date when in accordance with the foregoing provisions of this paragraph such gratuity

becomes payable, there shall be paid to the beneficiary on account of such gratuity weekly payments at a rate not exceeding the weekly rate of the contribution which the deceased at his death was, or would but for the relevant accident have been, making towards the maintenance of the beneficiary,

(iii) payment of benefit shall not be suspended under the provisions of this paragraph if in any case or class of cases the Department so directs.

(2) Where leave is necessary for an appeal by an insurance officer against an award of a local tribunal and either—

(a) application for leave having been made by an insurance officer to the chairman of the local tribunal, notice of that application is given or sent to the claimant within the 28 day period referred to in paragraph (1); or

(b) such an application having been refused and an application for leave to appeal having been made by the insurance officer to the Social Security Commissioner, notice of the latter application is given or sent to the claimant within 6 weeks of the date on which the insurance officer was notified of the refusal of the chairman of the local tribunal to give leave to appeal;

payment of the benefit (or that part of the benefit) to which the application for leave to appeal relates shall, in the case of a benefit referred to in paragraph (1), be suspended until a decision on the application (whether refusing or allowing leave to appeal) is given.

(3) In a case where leave to appeal is given on an application referred to in paragraph (2), paragraph (1) shall have effect as if the 28 day period to which it refers began on the date on which notice was given to the insurance officer that leave to appeal had been given.

(4) For the purposes of this regulation, the expression "appeal" shall be construed as including a reference of the decision of a medical board to a medical appeal tribunal and an application made under regulation 3 of the National Insurance (Correction and Setting Aside of Decisions) Regulations (Northern Ireland) 1975(a).

PAYMENTS UNDER THE ACT TO CERTAIN PERSONS WHO CONTRACTED DISEASES OR WHO WERE INJURED BEFORE 5TH JULY 1948

Payments by way of unemployability supplement and increases for children and adult dependants for persons entitled to workmen's compensation

40.—(1) A person who—

(a) is or has been on or after 5th July 1948 entitled in respect of any injury or disease to weekly payments by way of compensation under the Workmen's Compensation Acts; and

(b) as the result of that injury or disease could, for the purposes of section 58, be treated as being incapable of work and likely to remain permanently so incapable;

shall have the like right to payments under the Act by way of unemployability supplement, together with the like right to payments under the Act in respect of a child or adult dependant, as if the injury or disease were one in respect of which a disablement pension were for the time being payable.

(2) A person shall not be entitled—

(a) at any time to payment in accordance with the provisions of this regulation in respect of more than one injury or disease;

(b) to a payment in accordance with the provisions of this regulation during any period for which he is entitled to an increase of disablement pension by way of unemployability supplement under the said section 58.

(3) For the purposes of this regulation, the meaning in section 59(2) (increase of unemployability supplement by reference to beneficiary's age on qualifying date) of "the qualifying date" shall, subject to the provisions of subsections (3), (4) and (5) of that section, be the beginning of the first week for which the said person qualified for a payment by way of unemployability supplement under this regulation.

Payments in respect of the need of constant attendance and in respect of exceptionally severe disablement for persons entitled to workmen's compensation

41.—(1) A person who—

- (a) is or has been on or after 5th July 1948 entitled in respect of any injury or disease to weekly payments by way of compensation under the Workmen's Compensation Acts; and
- (b) as the result of that injury or disease—
 - (i) is subject to disabilities which are such that if they had resulted from an accident against which he had been insured under the Act the extent of the resulting disablement would be assessed at 100 per cent., and
 - (ii) requires constant attendance,

shall have the like right to payments in respect of the need of such constant attendance and in respect of exceptionally severe disablement under section 63 as if the said injury or disease were one in respect of which a disablement pension were for the time being payable in respect of an assessment of 100 per cent..

(2) References in this regulation to an injury or disease in respect of which a person is or has been entitled as aforesaid to weekly payments by way of compensation shall be construed as including every such injury or disease in respect of which he is so entitled, and references in this regulation to the disabilities resulting from an injury or disease and the extent of the resulting disablement shall be construed accordingly.

Application of the provisions of the Act and regulations

42. Subject to the provisions of regulations 40 and 41, the provisions of the Act and of the regulations for the time being in force thereunder relating to benefit and to the making of claims and payments and the determination of claims and questions, in so far as those provisions apply in relation to unemployability supplement or to an increase of a disablement pension in respect of the need of constant attendance or in respect of exceptionally severe disablement, or in respect of a child or adult dependant, shall apply in relation to any payment under regulation 40 or 41, as if such payment were an unemployability supplement under section 58 or an increase of a disablement pension in respect of the need of constant attendance under section 61 or in respect of exceptionally severe disablement under section 63 or in respect of a child or adult dependant under section 64 or 66, as the case may be.

MISCELLANEOUS PROVISIONS

Conditions relating to payment of additional benefit under awards made before the day appointed for an increase of benefit under any Act or Measure amending the Act or under any up-rating order

43. Where an award of any benefit under Chapter IV or V or Part II of the Act has been made before the day appointed for the payment of benefit of the description to which the award relates at a higher rate by virtue of an Act, a Measure or an up-rating order which increases benefit payable under the Act, paragraph 2(1) of Schedule 14 to the Act (effect of any such award) shall, if the period to which the award relates has not ended before that day, have effect subject to the condition that if the award has not been made in accordance with the provisions of sub-paragraph (2) of that paragraph

which authorise the making of such an award providing for the payment of the benefit at the higher rate as from that day and a question arises as to—

- (a) the weekly rate at which the benefit is payable by virtue of such Act, Measure or up-rating order which so increases benefit, or of these regulations; or
- (b) whether the conditions for the receipt of the benefit at the higher rate are satisfied;

the benefit shall be or continue to be payable at the weekly rate specified in the award until the said question shall have been determined in accordance with the provisions of the Act.

PART IV

Revocations and transitional provisions

44.—(1) The regulations specified in column (1) of Schedule 9 to these regulations are hereby revoked to the extent mentioned in column (3) of that Schedule.

(2) Anything whatsoever done under or by virtue of any regulation revoked by these regulations shall be deemed to have been done under or by virtue of the corresponding provisions of these regulations and anything whatsoever begun under any such regulation may be continued under these regulations as if begun under these regulations.

(3) The regulations so revoked shall continue to apply for the purpose of determining the rate or amount of any benefit payable in respect of any period before, or in respect of any assessment of disablement taking into account any period commencing before, the date of the coming into operation of these regulations.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 21st March 1984.

(L.S.)

A. N. Burns

Assistant Secretary

SCHEDULE 1

Regulation 10

Provisions for the purpose of which disqualifications under the Act are to be disregarded

<i>Class of persons</i> (1)	<i>Benefit for which person is disqualified</i> (2)	<i>Section of the Act for the purpose of which disqualification is to be disregarded</i> (3)	<i>Subject Matter</i> (4)
A widow	Widow's allowance	25(3)	Period for which a widowed mother's allowance is payable (being a period for which she is not entitled to a widow's allowance).
	Widow's allowance or widowed mother's allowance	26(3)	Period for which a widow's pension is payable (being a period for which she is not entitled to a widow's allowance or a widowed mother's allowance).
	Widowed mother's allowance	26(1)(b)	Widow's pension for certain widows ceasing to be entitled to widowed mother's allowance.
The husband of a widow	Category A retirement pension	24(1)(a)	Widow's allowance for widow of husband who at the date of his death was not entitled to a Category A retirement pension.

In this Schedule "widowed mother's allowance" and "widow's pension" include benefit under section 39(4) corresponding to a widowed mother's allowance and a widow's pension respectively.

SCHEDULE 2

Regulation 11

Prescribed degrees of disablement

	<i>Description of injury</i> (1)	<i>Degree of disablement</i> (2)
		per cent.
1.	Loss of both hands or amputation at higher sites	100
2.	Loss of a hand and a foot	100
3.	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential	100
5.	Very severe facial disfigurement	100
6.	Absolute deafness	100
7.	Forequarter or hindquarter amputation	100
	Amputation cases — upper limbs (either arm)	
8.	Amputation through shoulder joint	90
9.	Amputation below shoulder with stump less than 20·5 centimetres from tip of acromion	80
10.	Amputation from 20·5 centimetres from tip of acromion to less than 11·5 centimetres below tip of olecranon	70
11.	Loss of a hand or of the thumb and four fingers of one hand or amputation from 11·5 centimetres below tip of olecranon	60
12.	Loss of thumb	30
13.	Loss of thumb and its metacarpal bone	40
14.	Loss of four fingers of one hand	50
15.	Loss of three fingers of one hand	30
16.	Loss of two fingers of one hand	20
17.	Loss of terminal phalanx of thumb	20
	Amputation cases — lower limbs	
18.	Amputation of both feet resulting in end-bearing stumps	90
19.	Amputation through both feet proximal to the metatarsophalangeal joint	80
20.	Loss of all toes of both feet through the metatarsophalangeal joint	40
21.	Loss of all toes of both feet proximal to the proximal inter-phalangeal joint	30
22.	Loss of all toes of both feet distal to the proximal inter-phalangeal joint	20
23.	Amputation at hip	90
24.	Amputation below hip with stump not exceeding 13 centimetres in length measured from tip of great trochanter	80
25.	Amputation below hip and above knee with stump exceeding 13 centimetres in length measured from tip of great trochanter, or at knee not resulting in end-bearing stump	70
26.	Amputation at knee resulting in end-bearing stump or below knee with stump not exceeding 9 centimetres	60

27.	Amputation below knee with stump exceeding 9 centimetres but not exceeding 13 centimetres	50
28.	Amputation below knee with stump exceeding 13 centimetres	40
29.	Amputation of one foot resulting in end-bearing stump	30
30.	Amputation through one foot proximal to the metatarsophalangeal joint	30
31.	Loss of all toes of one foot through the metatarsophalangeal joint	20
	Other injuries	
32.	Loss of one eye, without complications, the other being normal	40
33.	Loss of vision of one eye, without complications or disfigurement of eyeball, the other being normal	30
	Loss of:	
	A. Fingers of right or left hand	
	Index finger—	
34.	Whole	14
35.	Two phalanges	11
36.	One phalanx	9
37.	Guillotine amputation of tip without loss of bone	5
	Middle finger	
38.	Whole	12
39.	Two phalanges	9
40.	One phalanx	7
41.	Guillotine amputation of tip without loss of bone	4
	Ring or little finger—	
42.	Whole	7
43.	Two phalanges	6
44.	One phalanx	5
45.	Guillotine amputation of tip without loss of bone	2
	B. Toes of right or left foot	
	Great toe—	
46.	Through metatarso-phalangeal joint	14
47.	Part, with some loss of bone	3
	Any other toe—	
48.	Through metatarso-phalangeal joint	3
49.	Part, with some loss of bone	1
	Two toes of one foot, excluding great toe—	
50.	Through metatarso-phalangeal joint	5
51.	Part, with some loss of bone	2
	Three toes of one foot, excluding great toe—	
52.	Through metatarso-phalangeal joint	6
53.	Part, with some loss of bone	3
	Four toes of one foot, excluding great toe—	
54.	Through metatarso-phalangeal joint	9
55.	Part, with some loss of bone	3

SCHEDULE 3

Regulation 12

Scale of disablement gratuities

<i>Degree of disablement</i>	<i>Appropriate proportion of maximum disablement gratuity (as specified in paragraph 2 of Part V of Schedule 4 to the Act)</i>
(1)	(2)
	per cent.
1 per cent.	10
2 per cent.	15
3 per cent.	20
4 per cent.	25
5 per cent.	30
6 per cent.	35
7 per cent.	40
8 per cent.	45
9 per cent.	50
10 per cent.	55
11 per cent.	60
12 per cent.	65
13 per cent.	70
14 per cent.	75
15 per cent.	80
16 per cent.	85
17 per cent.	90
18 per cent.	95
19 per cent.	100

SCHEDULE 4

Regulation 16

Rate of disablement pension payable in lieu of disablement gratuity in accordance with regulation 16

Where the degree of disablement is as specified in column (1) of the following table, the weekly rate of the pension shall be determined in accordance with column (2) of that table:

<i>Degree of disablement</i> (1)	<i>Rate of pension</i> (2)
less than 20 per cent. but not less than 16 per cent.	the appropriate weekly amount of disablement pension payable in respect of a degree of disablement of 20 per cent. as specified in paragraph 3 of Part V of Schedule 4 to the Act;
less than 16 per cent. but not less than 11 per cent.	75 per cent. of the appropriate weekly amount of disablement pension payable in respect of a degree of disablement of 20 per cent. as specified in the said paragraph 3;
less than 11 per cent. but not less than 6 per cent.	50 per cent. of the appropriate weekly amount of disablement pension payable in respect of a degree of disablement of 20 per cent. as specified in the said paragraph 3;
less than 6 per cent.	25 per cent. of the appropriate weekly amount of disablement pension payable in respect of a degree of disablement of 20 per cent. as specified in the said paragraph 3; a fraction of a penny being, for this purpose, treated as a penny.

SCHEDULE 5

Prescribed relationships

(a) Lineal descendant or ascendant in a direct line; and

(b) stepfather	sister
stepmother	half-brother
stepson	half-sister
stepdaughter	stepbrother
brother	stepsister

and

(c) the father or mother of any woman who is, or was at her death, the wife of the deceased at either her or his death; and

(d) the father or mother of any man who is, or was at his death, the husband of the deceased at either his or her death.

Maximum amounts of gratuities payable by way of death benefit to parents or relatives who were not wholly maintained by the deceased

1. The amount of any gratuity payable by way of death benefit to a beneficiary who is a relative prescribed for the purposes of section 72 and who would, but for the provisions of Schedule 9 to the Act, have been entitled to a pension under that section, shall not exceed 156 times the weekly rate of the contributions which the deceased at his death was or would but for the relevant accident have been making to that beneficiary's maintenance.

2. The amount of any gratuity payable by way of death benefit to any other beneficiary who is a parent within the meaning of section 71 or is a relative shall not exceed 104 times the said weekly rate of the contributions to such beneficiary's maintenance.

Provisions applying the limits imposed by Schedule 9 to the Act on the amount payable by way of death gratuities

1. The amount of £78·00 in the case of parents' gratuities or of £52·00 or £104·00 (as the case may be) in the case of relatives' gratuities, shall (subject to the provisions of paragraphs 2, 3 and 4 of this Schedule in relation to relatives' gratuities) be apportioned between the persons entitled as parents or as relatives, as the case may be, in proportion to the respective weekly rates of the contributions which the deceased at his death was or would but for the relevant accident have been making to the several maintenance of those persons.

2. Where the amount ascertained under paragraph 1 of this Schedule in relation to any person entitled to a parent's or relative's gratuity, as the case may be, exceeds the maximum amount which can be paid to him under the provisions of the Act, the difference between the maximum amount and the amount so ascertained shall—

- (a) if there is only one other person so entitled, be paid to that person; or
- (b) if there are two or more other persons so entitled, be apportioned between such persons in accordance with the provisions of the said paragraph 1.

3. Where there is only one relative who is by virtue of the provisions of Schedule 9 to the Act entitled to a gratuity in lieu of a pension under section 72, the amount payable to him shall be the full amount to which he is entitled under the relevant provisions of the Act, and the difference (if any) between £104·00 and the amount so payable to that relative shall—

- (a) if there is only one other relative, be the amount of the gratuity payable to that other relative; and
- (b) if there are two or more other relatives, be apportioned between them in accordance with paragraphs 1 and 2 of this Schedule.

4. Where there are two or more relatives each of whom is so entitled to a gratuity in lieu of a pension, the amount of £104·00 shall be apportioned equally between them.

5. Where, in respect of any death, a parent or relative has been paid the amount of any gratuity finally awarded to him as such, or any part of such amount, the death benefit payable to any person subsequently claiming to be entitled in respect of the same death to a gratuity as a parent or relative shall not exceed the difference between the sum or the aggregate of the sums previously paid as aforesaid in respect of parents' or relatives' gratuities, as the case may be, and—

- (a) the amount of £78·00 in the case of parents' gratuities; or
 - (b) the amount of £52·00 (or £104·00 where appropriate) in the case of relatives' gratuities;
- and the provisions of the Act and of this Schedule shall apply to any such subsequent claimant accordingly.

6. Where any sum has been repaid or recovered in respect of a gratuity awarded to any person, the amount paid to him on account of that gratuity shall, for the purpose of paragraph 5 of this Schedule, be treated as reduced by the amount so repaid or recovered.

Order of priority of title to allowances under section 70

1. Such person as may be designated in a written notice to the Department, signed by all the persons satisfying such conditions as aforesaid.
2. A person who, not being entitled to death benefit as such, is the widow of the deceased or who was, before her remarriage, the widow of the deceased.
3. A person who is entitled to death benefit in respect of the deceased's death—
 - (a) by way of a pension; or
 - (b) by way of an allowance under section 73 as a woman having the care of a child or children in respect of whom the deceased was entitled to child benefit.
4. Such person as the Department may in its discretion determine, having regard to the circumstances of the case.

SCHEDULE 9

Regulation 44

Regulations revoked

<i>Citation</i> (1)	<i>Reference</i> (2)	<i>Extent of revocation</i> (3)
The Social Security (General Benefit) (Northern Ireland) Regulations 1975	S.R. 1975 No. 26	The whole of the regulations
The Social Security (Non-Contributory Invalidity Pension) Regulations (Northern Ireland) 1975	S.R. 1975 No. 202	Regulation 10(1) and Schedule 1
The Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975	S.R. 1975 No. 280	Regulation 21(1)
The Social Security (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1976	S.R. 1976 No. 42	The whole of the regulations
The Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976	S.R. 1976 No. 99	Regulation 14
The Social Security (Child Benefit Consequential) Regulations (Northern Ireland) 1977	S.R. 1977 No. 73	Regulations 5 and 7
The Social Security (General Benefit) (Amendment) Regulations (Northern Ireland) 1979	S.R. 1979 No. 314	The whole of the regulations
The Social Security (Industrial Injuries) (Benefit) (Amendment) Regulations (Northern Ireland) 1980	S.R. 1980 No. 384	The whole of the regulations
The Social Security (General Benefit, Claims and Payments and Mobility Allowance) Regulations (Northern Ireland) 1980	S.R. 1980 No. 385	Regulations 2 and 3
The Social Security Benefits (Interim Payments) Regulations (Northern Ireland) 1981	S.R. 1981 No. 187	The whole of the regulations
The Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 1982	S.R. 1982 No. 284	Regulation 6(1)
The Social Security (General Benefit) (Amendment) Regulations (Northern Ireland) 1982	S.R. 1982 No. 322	Regulation 2

<i>Citation</i> (1)	<i>Reference</i> (2)	<i>Extent of revocation</i> (3)
The Social Security (Abolition of Injury Benefit) (Consequential) Regulations (Northern Ireland) 1983	S.R. 1983 No. 36	Regulation 6
The Social Security (Industrial Injuries) (Benefit) (Amendment) Regulations (Northern Ireland) 1983	S.R. 1983 No. 218	The whole of the regulations

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations, which consolidate jointly the Social Security (General Benefit) (Northern Ireland) Regulations 1975 with the Social Security (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1976, contain provisions relating to benefits payable under the Social Security (Northern Ireland) Act 1975.

Part I of the regulations makes provision for exceptions to disqualification during imprisonment and for suspension of payment during imprisonment, for the interim payment of benefits pending the determination of a claim, for the recovery, or set-off against benefit payable, of benefit not payable and for the repayment of benefits received by one person on behalf of another.

Part II makes provision, in connection with benefits other than industrial injuries benefit, for payment of benefits or suspension of payments pending the determination of an appeal, arrears, repayment and for disqualifications to be disregarded for certain purposes.

Part III makes provision, in connection with industrial injuries benefit, relating to the principles of assessment of disablement, gratuities, increases of disablement benefit, industrial death benefit, successive accidents and disqualification for, and suspension of, benefit. It also makes provision relating to benefit payable under the Act to persons entitled to workmen's compensation. Other provisions of Part III relate to unemployment supplement and to constant attendance allowance.

Part IV contains revocations and transitional provisions.