1992 No. 521

SOCIAL SECURITY

The Social Security Benefit (Dependency) (Amendment) Regulations (Northern Ireland) 1992

Made	*4th December 1992*
Coming into operation . .	*5th December 1992*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 83(3), 84(3), 85(4) and 171(1), (3) and (4) of, and paragraphs 6(3) to (5) of Schedule 7 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security Benefit (Dependency) (Amendment) Regulations (Northern Ireland) 1992 and shall come into operation on 5th December 1992.

(2) In these regulations ''the principal regulations'' means the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977(**b**).

Amendment of the principal regulations

2.—(1) The principal regulations shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) after the definition of ''the Child Benefit Order'' there shall be inserted the following definition—

'' ''the Contributions and Benefits Act'' means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;''.

(3) For regulation 8 (earnings rules for increases for adult dependants) there shall be substituted the following regulation—

''*Earnings rules for increases for adult dependants*

8.—(1) This paragraph applies in cases where an increase of benefit is claimed in respect of a spouse who is residing with the beneficiary and the increase is claimed under any of the following provisions of the Contributions and Benefits Act—

(*a*) section 83(2) (increase of Category A or Category C retirement pension or invalidity pension in respect of a wife);

(**a**) 1992 c. 7
(**b**) S.R. 1977 No. 74; relevant amending regulations are S.R. 1985 No. 229 and S.R. 1989 No. 103

(*b*) section 84(1) (increase of Category A retirement pension in respect of a husband); or

(*c*) paragraph 6(1)(*a*)(i) of Schedule 7 (increase of disablement pension in respect of a spouse where beneficiary entitled to unemployability supplement).

(2) Where paragraph (1) applies, there shall be no increase of benefit for any period during which the beneficiary is residing with his spouse and his spouse has earnings if the earnings of the spouse in the week in that period which falls immediately before the week in which the beneficiary is entitled to benefit under any provision specified in paragraph (1) exceed the amount specified in paragraph 1 of Part I of Schedule 4 to the Contributions and Benefits Act.

(3) Where the person referred to in section 85(2) of the Contributions and Benefits Act (''the dependant'') is residing with the pensioner, the weekly rate of a pension to which that section applies shall be increased by the amount specified in relation to that pension in column (3) of Part IV of Schedule 4 to that Act but there shall be no increase of pension for any period—

(*a*) during which the pensioner is residing with the dependant; and

(*b*) the dependant has earnings,

if the earnings of the dependant in the week in that period which falls immediately before the week in which the pensioner is entitled to the pension exceed the amount specified in paragraph 1 of Part I of Schedule 4 to that Act.

(4) Where the person referred to in paragraph 6(1)(*b*) of Schedule 7 to the Contributions and Benefits Act (''the dependant'') is residing with the beneficiary, the weekly rate of the disablement pension to which that paragraph applies shall be increased by the amount referred to in paragraph 8 of Part V of Schedule 4 but there shall be no increase of disablement pension for any period—

(*a*) during which the beneficiary is residing with the dependant; and

(*b*) the dependant has earnings,

if the earnings of the dependant in the week in that period which falls immediately before the week in which the beneficiary is entitled to a disablement pension exceed the amount specified in paragraph 1 of Part I of Schedule 4 to that Act.

(5) In determining the earnings of a dependant for the purposes of paragraphs (3) and (4), no account shall be taken of any earnings of that person from employment by the pensioner or the beneficiary, as the case may be, in caring for a child or children in respect of whom the pensioner or the beneficiary is entitled to child benefit.

(6) Where an increase of benefit is claimed in respect of a spouse who is not residing with the beneficiary and the increase is claimed under paragraph 6(1)(*a*)(ii) of Schedule 7 to the Contributions and Benefits Act there shall be no increase of benefit for any period during which the beneficiary is contributing to the maintenance of the spouse at a rate less

than the standard rate of the increase and the weekly earnings of the spouse exceed that rate.

(7) In this regulation—

(*a*) "week" means—

(i) in relation to Category A or Category C retirement pension the period of 7 days beginning with the day on which in accordance with the provisions of regulation 22 of, and paragraph 5 of Schedule 6 to, the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**a**) is the day for payment of the retirement pension in question; and

(ii) in relation to any other benefit the period of 7 days beginning with midnight between Sunday and Monday; and

(*b*) any reference to earnings includes a reference to payments by way of occupational or personal pension.".

Transitional provision

3.—(1) Where on 4th December 1992, a beneficiary was entitled to an increase of benefit for that day and by virtue of regulation 8(6) of the principal regulations as then in operation the provisions of the Act relating to the reduction of the rate of such increase applied to him, that paragraph shall continue to apply to him as though these regulations had not been made until such time as the beneficiary first ceases to be entitled to that increase.

(2) In paragraph (1) the expressions used have the same meaning as in the principal regulations.

Revocations

4. Regulation 2(4) of the Social Security Benefit (Dependency) (Amendment) Regulations (Northern Ireland) 1985(**b**) and regulation 4 of the Social Security Benefit (Dependency) (Amendment) Regulations (Northern Ireland) 1989(**c**) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 4th December 1992.

(L.S.) *A. N. Burns*
Assistant Secretary

(a) S.R. 1987 No. 465; relevant amending regulations are S.R. 1992 No. 7
(b) S.R. 1985 No. 229
(c) S.R. 1989 No. 103

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977 (''the principal regulations'').

Regulation 2 substitutes a new regulation for the existing regulation 8 to make provision for the reduction of increases of benefit paid in respect of an adult dependant where the dependant is in receipt of earnings of an amount specified in the principal regulations. ''Earnings'' are defined in section 89 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as including payments by way of occupational or personal pension.

Regulation 3 contains a transitional provision which continues the protection provided in regulation 8(6) of the principal regulations as previously in operation for people who were entitled to an increase of benefit before 15th September 1985.

Regulation 4 contains consequential revocations.

These regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.