1983 No. 341

SOCIAL SECURITY

The Social Security Benefits Up-rating Regulations (Northern Ireland) 1983

Made . . . . . *27th October 1983*

Coming into operation . . . *21st November 1983*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 126 of, and paragraph 2(1) of Schedule 14 to, the Social Security (Northern Ireland) Act 1975(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations which contain only provisions in consequence of an order (**b**) under section 120 of the said Act of 1975 and which accordingly, by virtue of section 10(2) of, and paragraph 12(2) of Schedule 3 to, the Social Security Act 1980(**c**) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security Benefits Up-rating Regulations (Northern Ireland) 1983 and shall come into operation on 21st November 1983.

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

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

"the Pensions Order" means the Social Security Pensions (Northern Ireland) Order 1975(**d**);

"the up-rating order" means the Social Security Benefits Up-rating Order (Northern Ireland) 1983(**e**);

and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number.

Conditions relating to payment of additional benefit under awards made before the appointed or prescribed day

2.—(1) This regulation applies to a case where—

(*a*) either—

(i) an award of any benefit under Chapters I to III of Part II of the Act has been made before the day appointed or prescribed for the payment of the benefit in question at a higher rate provided in or by virtue of the up-rating order, or

(ii) an award of any benefit under Part II of the Act has been made before the day appointed or prescribed for the payment of the benefit in question at a lower rate provided in or by virtue of the up-rating order;

(*b*) the period to which the award relates has not ended before that day; and

(*c*) the award does not, in accordance with the provisions of paragraph 2(2) of Schedule 14 to the Act, provide for the payment of the benefit at the higher or lower rate (as the case may be) as from that day.

(**a**) 1975 c. 15
(**b**) S.R. 1983 No. 243
(**c**) 1980 c. 30; paragraph 12(2) of Schedule 3 was amended by section 42(2) of the Social Security and Housing Benefits Act 1982 (c. 24)
(**d**) S.I. 1975/1503 (N.I. 15)
(**e**) S.R. 1983 No. 243

(2) In a case to which this regulation applies, paragraphs 1 and 2 of Schedule 14 to the Act shall have effect subject to the condition that if a question arises as to either—

(*a*) the weekly rate at which the benefit is payable by virtue of the up-rating order; or

(*b*) whether the conditions for the receipt of the benefit at the altered rate are satisfied,

the benefit shall, until the question has been determined in accordance with the provisons of the Act, be or continue to be payable at the weekly rate specified in paragraph (3).

(3) The weekly rate referred to in paragraph (2) is the weekly rate specified in the award or the weekly rate at which the benefit would have been paid if the question had not arisen, whichever is the lower.

Persons not ordinarily resident in Northern Ireland

3. Regulation 5 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(**a**) (application of disqualification in respect of up-rating of benefit) shall apply to any additional benefit payable by virtue of the up-rating order.

Transitory provision

4.—(1) This regulation applies in a case where—

(*a*) a person is entitled to receive any of the benefits specified in paragraph (2) for both the day on which, in his case, an increase of that benefit takes effect under the up-rating order or would so take effect but for regulation 3 above (''the later day'') and the day (not counting Sunday as a day where the benefit in question is not payable for Sundays) immediately before the later day (''the earlier day'');

(*b*) on both days either or both of the following conditions is or are fulfilled, namely—

(i) he is entitled to receive with that benefit an increase or increases for one or more child dependants, with or without an increase for an adult dependant, and

(ii) he, or his spouse if they are living together, is entitled to receive an allowance or allowances under section 70 of the Act (industrial death benefit);

(*c*) the aggregate of—

(i) the weekly rate of that benefit, as applicable in the case of that person, including any increases for child and adult dependants which he is entitled to receive, and

(ii) where the condition in sub-paragraph (*b*)(ii) of this paragraph is fulfilled, the weekly rate of that allowance or the total weekly rate of those allowances,

reduced or adjusted as appropriate under any provision of the Act or regulations made thereunder, would, apart from this regulation but because of the up-rating order, be less for the later day than for the earlier day.

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

(*a*) unemployment benefit;
(*b*) sickness benefit;
(*c*) invalidity pension;
(*d*) maternity allowance;
(*e*) widow's allowance;

(a) S.R. 1978 No. 114; the relevant amending regulations are S.R. 1979 No. 392

(*f*) widowed mother's allowance;
(*g*) Category A retirement pension;
(*h*) Category B retirement pension;
(*i*) Category C retirement pension;
(*j*) non-contributory invalidity pension;
(*k*) invalid care allowance;
(*l*) disablement pension; and
(*m*) widow's pension under sections 67 and 68 of the Act.

(3) For the purposes of paragraphs (1) and (4), the weekly rate—

(*a*) of a Category A or Category B retirement pension or a widowed mother's allowance is its weekly rate before the reduction required by Article 31(1) of the Pensions Order is made;

(*b*) of a Category A or Category B retirement pension includes any increase to which the person in question is entitled under section 28(7) of the Act, and any increments to which he is entitled under Schedule 1 to the Pensions Order;

(*c*) of a Category A, Category B or Category C retirement pension shall be taken to include any graduated retirement benefit to which that person is entitled under sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966(**a**); and

(*d*) of an invalidity pension shall be taken to include any invalidity allowance to which the person in question is entitled under section 16 of the Act.

(4) In a case to which this regulation applies—

(*a*) the person in question shall continue to be entitled to receive the benefit in question, including the increases in question; and

(*b*) where the condition in paragraph (1)(*b*)(ii) is fulfilled, he or his spouse, as the case may be, shall continue to be entitled to receive the allowance or allowances in question,

at the same rate as for the earlier day for so long as he is entitled to receive the same benefit (or, where the condition in paragraph (1)(*b*)(ii) is fulfilled, he is entitled to receive the same benefit and he or his spouse is entitled to receive the same allowance or allowances) for a continuous period without any change in the number of adult and child dependants for whom he is entitled to receive increases (or, as the case may be, he is entitled to receive increases and he or his spouse is entitled to receive an allowance or allowances) and without any further adjustment falling to be made to that rate as a result of the operation of any provision of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(**b**) or of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(**c**).

Revocations

5. The Social Security Benefits Up-rating Regulations (Northern Ireland) 1982(**d**) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 27th October 1983.

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

(**a**) 1966 c. 6 (N.I.); sections 35 and 36 were repealed by the Social Security Act 1973 (c. 38) but are continued in force by regulation 2 of S.R. 1978 No. 105 in the modified form set out in Schedule 1 to those regulations as amended by Article 6 of S.R. 1983 No. 243
(**b**) S.R. 1975 No. 109, as amended by S.R. 1975 No. 202, S.R. 1977 Nos. 73, 166 and 316, S.R. 1979 No. 68 and S.R. 1983 No. 36
(**c**) S.R. 1979 No. 242, as amended by S.R. 1980 No. 451, S.R. 1982 No. 272 and S.R. 1983 No. 36
(**d**) S.R. 1982 No. 343

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations are made in consequence of the Social Security Benefits Up-rating Order (Northern Ireland) 1983 ("the up-rating order").

Regulation 2 provides that in certain cases where a question has arisen about the effect of the up-rating order on a benefit already in payment the altered rates will not apply until the question is determined by an adjudicating authority.

Regulation 3 applies the provisions of regulation 5 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978 so as to restrict the application of the increases specified in the up-rating order in cases where the beneficiary lives abroad.

Regulation 4 provides that where the effect of the up-rating order would otherwise be to reduce the total amount of any of a number of specified benefits (including increases for children or payments of industrial death benefit comparable to such increases) the higher rate will continue in payment transitionally until the beneficiary ceases to be entitled or there is another change affecting the rate payable.

Regulation 5 revokes the Social Security Benefits Up-rating Regulations (Northern Ireland) 1982.