1982 No. 239

SOCIAL SECURITY

The Supplementary Benefit (Requirements and Resources) (Amendment) Regulations (Northern Ireland) 1982

Made	*3rd August 1982*
Coming into operation . . .	
Except for regulation 2(7)(b) and (14)(b)	*9th August 1982*
Regulation 2(7)(b) and (14)(b)	*22nd November 1982*

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

Citation and commencement

1. These regulations may be cited as the Supplementary Benefit (Requirements and Resources) (Amendment) Regulations (Northern Ireland) 1982 and shall come into operation on 9th August 1982 except for regulation 2(7)(*b*) and (14)(*b*) which shall come into operation on 22nd November 1982.

Amendment of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980

2.—(1) The Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980(**d**) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) (interpretation) after the definition of "rent" there shall be inserted the following definition—

" "single claimant" means a claimant who is not a partner;".

(3) In regulation 5(2) (meaning of householder)—

(*a*) for "person, other than a partner," there shall be substituted "single claimant";

(*b*) in sub-paragraph (*a*) after "is treated" there shall be inserted ", otherwise than by reason only of regulation 20(4),".

(4) For regulation 6(1) (normal requirements of persons other than partners and householders) there shall be substituted the following paragraph—

(a) S.I. 1977/2156 (N.I. 27): Schedule 1 was substituted by Article 7(1) of, and paragraph 29 of Schedule 2 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8))

(b) Formerly the Department of Finance: *see* S.I. 1982/338 (N.I. 6), Article 3. *See* also Article 41(1) of the Supplementary Benefits (Northern Ireland) Order 1977, as amended by the Social Security (Northern Ireland) Order 1980

(c) 1980 c. 30

(d) S.R. 1980 No. 347; as amended by S.R. 1980 No. 422 and S.R. 1981 Nos. 105, 241, 275 and 282

"(1) Subject to paragraphs (2) and (3), the weekly amount of the normal requirements of a single claimant who is not a householder and of a dependant (not being a partner) shall be determined in accordance with Schedule 1, paragraph 1 or 2 of that Schedule applying in the case of a single claimant and paragraph 3 in that of a dependant.".

(5) In regulation 7 (conditions for long-term rates of normal requirements)—

(*a*) in paragraph (2)(*b*)—

(i) after "person who" there shall be inserted ", by reason of regulation 6(*e*) of the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1981(**a**) (exemption from condition of availability where no further prospect of employment due to physical or mental disablement),",

(ii) "because, due to disability and long unemployment, he has no prospects of further employment" shall be omitted,

(iii) for "pursuant to Article 7" there shall be substituted "pursuant to regulation 8(*b*)(ii) of the Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 1981(**b**) (attendance at social security office where condition of availability applies)";

(*b*) in paragraph (4)—

(i) for "paragraph 3(1)" there shall be substituted "paragraph 3",

(ii) "of married and unmarried couples" shall be omitted,

(iii) after "an end" there shall be inserted "and the condition in paragraph (4A) is satisfied";

(*c*) after paragraph (4) the following paragraph shall be inserted—

"(4A) The condition mentioned in paragraph (4) is that the requirements and resources of A were aggregated with and treated as those of B either—

(*a*) under paragraph 3(1) of Schedule 1 to the Order (aggregation of married and unmarried couples); or

(*b*) under paragraph 3(2) of Schedule 1 to the Order (aggregation of dependants) and there are now so aggregated with A's requirements and resources those of another person which were previously so aggregated with B's.".

(6) In regulation 9(1) (modification of normal requirements of boarders) after "so however that" there shall be inserted ", except where paragraph (7) applies,".

(7) In regulation 12 (heating)—

(*a*) in paragraph (2)(*g*)—

(i) for "an amount is applicable under" there shall be substituted "a separate charge is payable as mentioned in column (1) of",

(ii) in each of heads (i) and (ii) "referred to in column (1) of that paragraph" shall be omitted;

(*b*) in each of sub-paragraphs (*a*) and (*b*) of paragraph (4) before "of Schedule 3" there shall be inserted "or 6".

(8) In regulation 15(3) (deductions from inclusive rent) after "thirteen weeks" there shall be inserted ", or for a shorter period if (for example because of the application of paragraph 1 or 2 of Schedule 2) a householder rate of normal requirements is no longer applicable,".

(**a**) S.R. 1981 No. 371; as amended by S.R. 1982 No. 240
(**b**) S.R. 1981 No. 368; as amended by S.R. 1982 No. 240

(9) In regulation 16 (mortgage payments)—

(*a*) in paragraph (1)—

(i) for "charged on and" there shall be substituted "or other loan",

(ii) for "mortgage interest" there shall be substituted "interest on the loan";

(*b*) in paragraph (2)—

(i) in sub-paragraph (*b*) for "mortgage" there shall be substituted "loan",

(ii) for "mortgagee" there shall be substituted "lender",

(iii) for the words from "regulations" to the end of the paragraph there shall be substituted "regulation 4(4) of the Supplementary Benefit (Determination of Questions) Regulations (Northern Ireland) 1980(a) so provides.".

(10) Paragraph (2A) of regulation 20 (special cases) shall be omitted.

(11) In regulation 21(2)(*b*) (restriction where amounts excessive) after "regulation 15," there shall be inserted "otherwise than by virtue of regulation 15(7)(*a*),".

(12) In regulation 22(2)(*c*) (reduction in amounts applicable for certain occupants of the home) "mortgage" wherever it appears shall be omitted, and for "mortgagee" there shall be substituted "lender".

(13) In Schedule 2 (modification of normal requirements in special cases)—

(*a*) in column (1) of paragraph 2 (patients)—

(i) in sub-paragraph (*a*) after "patient" there shall be inserted "but, where he has a dependant, only if both he and his partner have been patients for a continuous period of more than 8 weeks",

(ii) in sub-paragraph (*b*) after "patient" there shall be inserted "(whether or not his partner is also a patient)";

(*b*) in paragraph 3(*c*) of column (1) for "who, pursuant to Article 7" to the end of the sub-paragraph there shall be substituted "to whom regulation 6(*j*) of the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1981 (exemption of unmarried students from condition of availability in certain circumstances) applies.".

(14) In Part I of Schedule 3 (additional requirements for heating)—

(*a*) for paragraph 5 in column (2) there shall be substituted the following paragraph—

"5. Where the home, excluding any bathroom, lavatory or hall, consists of—

(*a*) not more than four rooms, £3·30;

(*b*) five or more rooms, £6·60.",

so however that where , after the coming into operation of this sub-paragraph, the amount applicable to a claimant under the said paragraph 5 as amended by this sub-paragraph ("the new amount") is less than the amount which was so applicable under paragraph 5 immediately prior to its being so amended ("the old amount"), there shall be payable to the claimant an additional amount of pension or allowance (an "addition") equal to the difference between the new amount and the old amount, and that addition shall on any increase in the aggregate amount of the normal, additional and housing requirements applicable to the claimant which is attributable to a change of circumstances which occurs after 21st November 1982 be reduced by an amount equal to half the amount of such increase;

(a) S.R. 1980 No. 423; as amended by S.R. 1982 No. 240

(*b*) for paragraph 6 in column (1) there shall be substituted the following paragraph—

"6. Person in respect of whom—

(*a*) any of the following is payable—

(i) mobility allowance or attendance allowance under the Act,

(ii) increase under section 61 of the Act of the weekly rate of disablement pension where constant attendance is needed,

(iii) constant attendance allowance under Article 14 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1978(**a**),

(iv) a grant under Article 30(3) of the Health and Personal Social Services (Northern Ireland) Order 1972(**b**) (costs of vehicles for disabled persons) towards the cost of maintaining a vehicle belonging to a person referred to in Article 30(1) of that Order, or

(v) an amount pursuant to Article 26 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1978 (provision of expenses in respect of appropriate aids for disabled living) in respect of the cost of providing a vehicle for, or maintaining a vehicle belonging to, a disabled person; or

(*b*) an invalid carriage or other vehicle has been provided pursuant to Article 30 of the Health and Personal Social Services (Northern Ireland) Order 1972.".

Amendment of the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1981

3.—(1) The Supplementary Benefit (Resources) Regulations (Northern Ireland) 1981(**c**) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) (interpretation)—

(*a*) in the definition of "liable relative" after "such a father" there shall be inserted ", and includes a person liable to maintain a member of the assessment unit under Article 22(1)(*c*) (sponsored immigrants)";

(*b*) in the definition of "occupational pension scheme" for the words from "shall be construed" to the end of the definition there shall be substituted "means any pension or other periodical payment under such a scheme, except that any reference to an occupational pension shall not include a reference to—

(*a*) any element of that pension payable by way of compensation for injury, disease, disablement or death suffered by a person by reason of the service or employment in which he was engaged; or

(*b*) any discretionary payment out of a fund established for relieving hardship in particular cases;".

(3) In regulation 3(2) (calculation of resources)—

(*a*) for sub-paragraph (*b*) there shall be substituted the following sub-paragraph—

"(*b*) any sum, including any instalment of a capital payment which falls to be paid by instalments, made, whether in pursuance of a court order or otherwise, by or derived from a liable relative, shall be treated in accordance with the provisions of regulation 13;";

(*b*) for sub-paragraph (*c*) there shall be substituted the following sub-paragraph—

(**a**) S.I. 1978/1525
(**b**) S.I. 1972/1265 (N.I. 14)
(**c**) S.R. 1981 No. 370

"(*c*) any instalment of a capital payment (other than a payment to which sub-paragraph (*b*) applies) which falls to be paid by instalments shall be treated—

(i) in a case where, if the instalment were treated as a capital resource, the amount of the claimant's capital resources would not exceed the amount mentioned in regulation 7 unless the amount of the outstanding instalments were also treated as a capital resource, as an income resource,

(ii) in any other case, as a capital resource;";

(*c*) in head (i) of sub-paragraph (*d*) after "affected by a trade dispute" there shall be inserted "or to whom Article 13 (return to full-time employment following a trade dispute) applies".

(4) In regulation 4 (notional resources) after paragraph (11) there shall be added the following paragraphs—

"(12) In the case of a person to whom Article 13 (return to full-time employment following a trade dispute) applies any sum mentioned in regulation 10(1)(*c*) which is offered to him shall be treated as if it were possessed by him.

(13) Where the claimant is a student in receipt of a full-value grant or award by an education authority he shall, for the duration of the Christmas and Easter vacations, be treated as being in receipt of an income resource at a weekly rate equal to the aggregate of the ordinary rate specified in column (2) of paragraph 1 of Schedule 1 to the Requirements Regulations and the sum specified in regulation 23(1)(*a*) of those regulations.

(14) In paragraph (13) "full-value grant or award" means a grant or award, made by an education authority, which includes an element for maintenance during the Christmas and Easter vacations.".

(5) In regulation 6(1) (capital resources to be disregarded)—

(*a*) in sub-paragraph (*a*)—

(i) in head (iv) after "assessment unit" there shall be added "or by the spouse of a claimant who, by virtue only of paragraph (3)(*a*) or (*b*) of regulation 2 of the Aggregation Regulations (one member of a married couple in residential accommodation or in hospital) is not to be treated as being a member of the same household as that spouse",

(ii) for "practicable or reasonable" there shall be substituted "practicable and reasonable";

(*b*) after sub-paragraph (*f*) there shall be added the following sub-paragraphs—

"(*g*) for a period not normally exceeding 6 months from the date of receipt, any sum which—

(i) has been paid to the claimant or his partner in consequence of damage to, or the loss of, the home or any personal possession and which is to be used for its repair or replacement, or

(ii) has been given or loaned to the claimant or his partner on the condition that it is to be used for effecting essential repairs or improvements to the home and which is to be used for that purpose,

and which, in the opinion of the benefit officer, it is reasonable in all the circumstances to disregard;

(*h*) in a case where a capital payment falls to be paid by instalments, the value of any outstanding instalments.".

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

(*a*) in paragraph (1)(*c*) for "ex gratia payment" there shall be substituted ", in the case only of a person to whom Article 12 or 13 (persons affected by, or returning to full-time employment following, a trade dispute) applies, any ex gratia payment";

(*b*) in sub-paragraph (*e*)(ii) of paragraph (2) for the words from "earnings" to "requirements" there shall be substituted "earnings for the last complete week in which, pursuant to that regulation, he is treated as being in remunerative full-time work is more than the amount equal to twice the normal and housing requirements";

(*c*) in head (iii) of paragraph (4)(*c*) the words from "for which" to the end shall be omitted;

(*d*) in paragraph (6) for the words from "and any sum" to the end of the paragraph there shall be substituted "or of any sum treated as possessed by him in accordance with regulation 4(12)".

(7) In regulation 11 (calculation of other income)—

(*a*) in paragraph (2), after sub-paragraph (*h*) there shall be inserted the following sub-paragraph—

"(*hh*) any allowance payable pursuant to arrangements made by the Department of Manpower Services(**a**) under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(**b**) and paid by or on behalf of that Department to or in respect of any member of the assessment unit for the purpose of assisting him in the carrying on of a business;";

(*b*) in paragraph (4)—

(i) in sub-paragraph (*d*) after head (ii) there shall be added the following head—

"(iii) to or in respect of a student or person receiving relevant education or person to whom regulation 3(5) of the Aggregation Regulations (person aged 19 treated as receiving relevant education) applies, and which is intended and used for meeting expenses reasonably incurred by him while living in accommodation away from the home for the purpose of attending a course at an educational establishment;",

(ii) in sub-paragraph (*i*) for the words from "excess shall" to the end of the sub-paragraph there shall be substituted—

"excess shall—

(i) where the payment has been made by or derived from a liable relative, be treated in accordance with the provisions of regulation 13,

(ii) in any other case, be taken into account in full;";

(*c*) in paragraph (6)(*a*)—

(i) after "income tax" there shall be inserted "or any contribution to which regulation 10(4)(*b*)(i) applies",

(ii) in head (i) for "tax" there shall be substituted "that tax or contribution",

(iii) for head (ii) there shall be substituted the following head—

(a) *See* S.R. & O. (N.I.) 1964 No. 205, Article 3, for transfer of functions from Ministry of Labour and National Insurance to Ministry of Health and Social Services and S.R. & O. (N.I.) 1973 No. 504, Article 6, for transfer of functions from Ministry of Health and Social Services to Department of Manpower Services.

(b) 1950 c. 29 (N.I.)

"(ii) where that tax or contribution is not so deducted, is a reference to the gross payment, save that, at such time as that tax or contribution is paid on it, the payment shall be treated for the purposes of review pursuant to regulation 4 of the Determination of Questions Regulations as a net payment;".

(8) In regulation 13 (payments made by or derived from liable relatives)—

(*a*) for paragraph (1) there shall be substituted the following paragraph—

"(1) Any periodical payment, including any arrears paid periodically, and, subject to paragraph (4)(*a*), any lump sum payment, including any arrears paid by way of a lump sum, made, whether in pursuance of a court order or otherwise, to a member of the assessment unit, by or derived from a liable relative shall be taken into account in full as income.";

(*b*) after paragraph (4) there shall be added the following paragraph—

"(5) In this regulation "lump sum" means any sum which is not —

(*a*) paid periodically; or

(*b*) an instalment of a capital payment which falls to be paid by instalments.".

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 3rd August 1982.

(L.S.) *E. H. Elliott*
Assistant Secretary

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

Sealed with the Official Seal of the Department of Finance and Personnel for Northern Ireland on 3rd August 1982.

(L.S.) *N. R. Cowling*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the regulations made under the Supplementary Benefits (Northern Ireland) Order 1977 ("the Order"), as amended by the Social Security (Northern Ireland) Order 1980, which govern the determination of requirements and resources.

Regulation 2 amends the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980. In regulation 2 of those regulations the definition of "single claimant" is inserted in consequence of the substitution of that term elsewhere in the regulations for the purposes of clarification. Regulation 5 is amended to exclude from the definition of "householder" a person who is treated as responsible for items of housing expenditure by reason only of the assessment unit having changed its home, and an amendment is made to regulation 6 to make clear that the rates of normal requirements for non-householders and dependants are to be found in Schedule 1. Regulation 7 is amended so as to adjust the conditions for entitlement to the long-term rate of normal requirements, in particular where there has been a break in the qualifying period of entitlement and where the claimant has a dependant. Regulation 9 is amended to make provision that the modified normal requirements applicable to a boarder are not to be subject to a minimum amount where the board and lodging is provided wholly or partly in return for services. Regulation 12 is amended so as to clarify the provisions which regulate the circumstances in which more than one additional requirement for heating may be awarded, and to remove the additional requirement for heating for disabled persons where those persons are resident in certain accommodation. Amendment is made to regulation 15 to extend the circumstances in which deductions are not to be made from the amount applicable for rent which is inclusive of heating, lighting, cooking or hot water in circumstances where the householder's rate of normal requirements is no longer applicable to a claimant. Regulation 16 is amended to provide for the payment of interest on loans other than a mortgage taken out to acquire an interest in the home, and regulations 20 and 22 are consequently amended. Amendment is made to regulation 21 so that the restriction imposed on housing requirements which are considered to be excessive shall not apply to rent payable under a co-ownership scheme. Schedule 2 is amended in particular to make adjustments to the calculation of the modified normal requirements of patients. In Schedule 3 amendment is made to the amounts applicable to a claimant whose home is on an estate built with a heating system the operation of which is recognised to be disproportionately expensive and a transitional provision included to protect the position of existing claimants; in addition an extension is made to the categories of disabled persons who are eligible for certain additional requirements for heating.

Regulation 3 amends the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1981. In regulation 2 amendment is made to extend the definition of "liable relative" and to exclude from the definition of 'occupational pension" certain payments of compensation and sums paid in cases of hardship. Regulation 3 is amended to adjust the provision for the treatment of payments made by or derived from liable relatives and of capital payments which fall to be paid by instalments; amendment is also made so that a repayment of income tax made to a person who has returned to full-time employment following a trade dispute is to be taken into account as income in the week in which it is received. In regulation 4 further paragraphs are added to provide that a person who has returned to full-time employment following a trade dispute is to be treated as possessing certain payments which have been offered to him, and to effect that a student in receipt of a full-value grant or award is to be treated as receiving an income resource during the Christmas and Easter vacations. The provisions of regulation 6 relating to the calculation of resources are amended to

make provision for disregarding in certain circumstances the value of premises occupied by a spouse from whom the claimant is separated, as well as for disregarding certain payments to be used for the repair or replacement of the home or personal possessions or for essential improvements to the home, and for disregarding outstanding instalments of sums which fall to be paid by instalments. Regulation 10 is amended to provide for the treatment as earnings of certain sums paid to persons who are affected by a trade dispute or who have returned to full-time employment following such a dispute. The provisions of regulation 11 are amended to make provision for certain payments from the Department of Manpower Services to be taken into account in full as income resources, and also to provide for the disregard of certain sums paid to students living away from home. Amendment is also made to the provisions relating to the treatment of gifts from liable relatives and the treatment of payments on which a contribution under Part I of the Social Security (Northern Ireland) Act 1975 is payable. In regulation 13 amendment is made to the provision governing the treatment of payments to a member of the assessment unit by or derived from a liable relative.