1987 No. 5

SOCIAL SECURITY

The Supplementary Benefit (Requirements and Resources) (Amendment) Regulations (Northern Ireland) 1987

Made	*19th January 1987*
Coming into operation . .	*26th January 1987*

The Department of Health and Social Services, in exercise of the powers conferred on it by paragraphs 1(2) and 2(1) 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:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Supplementary Benefit (Requirements and Resources) (Amendment) Regulations (Northern Ireland) 1987 and shall come into operation on 26th January 1987.

(2) In these regulations—

"Requirements Regulations" means the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983(**c**);

"Resources Regulations" means the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984(**d**).

Amendment of the Requirements Regulations

2.—(1) The Requirements Regulations shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 14 (housing requirements), after paragraph (4A) there shall be inserted the following paragraph—

> "(4AA) Where for the purposes of Article 4 of, and Schedule 5 to, the Rates (Northern Ireland) Order 1977(**e**), it appears to the Department of the Environment, or it is deemed in pursuance of paragraphs 2 to 4 of that Schedule that the hereditament includes the home and that only a proportion of the rateable value of the hereditament is attributable to use for the purpose of a private dwelling, the amounts applicable under regulation 16 or 18 shall be

(a) 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

(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) S.R. 1983 No. 61; the relevant amending regulations are S.R. 1983 No. 291

(d) S.R. 1984 No. 54; the relevant amending regulations are S.R. 1985 No. 336 and S.R. 1986 No. 236

(e) S.I. 1977/2157 (N.I. 28)

such proportion of the amounts applicable in respect of the hereditament or premises as a whole as is equal to the proportion of the rateable value of the hereditament attributable to the part of the hereditament used for the purposes of a private dwelling.''.

(3) For regulation 16 (mortgage payments) there shall be substituted the following regulation—

''*Interest on loans to acquire an interest in the home*

16.—(1) Subject to paragraphs (2) to (10) the following amounts shall be applicable under this regulation—

(*a*) if the claimant or, if he is a member of a married or unmarried couple, he or his partner is aged 60 or over, 100 per cent. of the eligible interest in his case;

(*b*) if the claimant or, if he is a member of a married or unmarried couple, he and his partner are aged under 60—

(i) where the claimant has been in receipt of an allowance in respect of a continuous period of not less than 16 weeks, 100 per cent. of the eligible interest in his case,

(ii) in any other case, 50 per cent. of the eligible interest in that case.

(2) Where in a case to which paragraph (1)(*b*)(ii) applies—

(*a*) either—

(i) the claim for an allowance is refused, or

(ii) an award of an allowance is terminated on appeal or review, solely because the claimant's resources exceed his requirements by virtue of the fact that only 50 per cent. of the eligible interest in his case is applicable to him under paragraph (1)(*b*)(ii); and

(*b*) the claimant or his partner makes a further claim no later than 20 weeks after—

(i) where the original claim for an allowance was refused, the date of that claim, or

(ii) where an award of an allowance was terminated on appeal or review, the date of the claim in respect of which that award was made,

the amount applicable under this regulation commencing on a date not before the expiry of 16 weeks from the date specified in head (i) or (ii), as the case may be, shall be 100 per cent. of the eligible interest in that case and until that date shall be the amount specified in paragraph (1)(*b*)(ii).

(3) Subject to paragraphs (4) and (5), in this regulation ''eligible interest'' means the amount of interest on a loan, whether or not secured by way of a mortgage taken out to defray money applied for the purpose of—

(*a*) acquiring an interest in the home; or

(*b*) paying off another loan but only to the extent that interest on that other loan would have been eligible interest had the loan not been paid off.

(4) Subject to paragraph (5) and regulation 14(4AA) and to any restriction imposed under regulation 21, the amount of eligible interest in any case shall be the amount, calculated on a weekly basis, of—

(*a*) where, or in so far as, section 26 of the Finance Act 1982(**a**) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax thereon at the basic rate for the year of assessment in which the payment of interest becomes due:

(*b*) in any other case the interest which is payable on the loan without deduction of such a sum.

(5) Where a loan is applied only in part for a purpose specified in paragraph (3), only such proportion of the interest payable thereon as is equal to the proportion of the loan applied for that purpose shall qualify as eligible interest.

(6) Where, under the terms of a loan taken out for a purpose specified in paragraph (3), interest is payable on accumulated arrears of interest (whether or not those arrears have been consolidated with the outstanding capital), the amount of such interest shall be applicable under this regulation as if it were eligible interest but only in so far as it represents interest on arrears incurred during any period—

(*a*) when paragraph (1)(*b*)(ii) applied in that case; or

(*b*) when the claimant was not entitled to benefit which fell within the period of 20 weeks specified in paragraph (2)(*b*),

and in either case only to the extent that arrears do not exceed 50 per cent. of the eligible interest that otherwise would have been payable during the period in question.

(7) Where a person who was formerly one of a married or unmarried couple—

(*a*) has taken out, either solely or jointly with his former partner, a loan secured on their home for a purpose other than one specified in paragraph (3); and

(*b*) has left the home and either cannot or will not pay the interest on the loan,

and, if that person's former partner has to pay the interest on the loan in order to continue to live in the home, there shall be applicable to the former partner under this regulation the amount of interest on the loan calculated as if it were a loan taken out for a purpose specified in paragraph (3).

(8) Where an amount is applicable under this regulation, if, notwithstanding that the amount of interest payable is reduced by virtue of—

(*a*) a reduction in interest rates; or

(*b*) a reduction in the amount of loan capital outstanding,

the amount of instalments which the borrower is liable to pay remains constant, the amount applicable shall not be adjusted to take account of the

(**a**) 1982 c. 39.

new amount of interest payable except where regulation 86(3) of the Social Security (Adjudication) Regulations (Northern Ireland) 1984(**a**) so provides.

(9) Not withstanding paragraph (1)(*b*)(ii), where a claimant is, or if he is a member of a married or unmarried couple, he and his partner are, aged under 60 and he, or either of them, was in receipt of an allowance immediately before 26th January 1987 there shall be applicable under this regulation 100 per cent. of the eligible interest in that case for so long as he, or either of them, remains in receipt of an allowance.

(10) For the purpose of paragraphs (1) and (9)—

(*a*) a person shall be treated as being in receipt of an allowance during the following periods—

(i) any period in respect of which it was subsequently held on appeal or review that he was so entitled, and

(ii) any period of 8 weeks or less in respect of which he was not in receipt of an allowance and which fell immediately between periods in respect of which he was in receipt thereof or to which head (i) applies;

(*b*) a person shall be treated as not being in receipt of an allowance during any period other than a period to which sub-paragraph (*a*)(ii) applies in respect of which it is subsequently held on appeal or review that he was not so entitled;

(*c*) where the requirements and resources of a person, A, were, in respect of a past period, aggregated and treated as those of another person, B,—

(i) under paragraph 3(1) of Schedule 1 to the Order (aggregation in the case of married or unmarried couples), or

(ii) under paragraph 3(2) of that Schedule 1 (aggregation of dependants) and there are now aggregated with A's requirements and resources under that paragraph 3(2) those of another person which were previously so aggregated with B's,

and if A makes a claim for an allowance within 8 weeks of the cessation of aggregation, A shall be treated as having been in receipt of an allowance for the same period as B had been or had been treated, for the purpose of paragraph (1), as having been.''.

(4) In regulation 18(1) (interest on loans for repairs and improvements), for the words from ''the amount'' to the end there shall be substituted ''an amount in respect of interest payable on a loan which is taken out, with or without security, for the purpose of—

(*a*) carrying out repairs or improvements to the home; or

(*b*) paying off another loan but only to the extent that interest on that other loan would have been applicable under this regulation had the loan not been paid off,

and which is used for that purpose or is to be so used within 6 months of the date of receipt or such further period as an adjudication officer considers

(a) S.R. 1984 No. 144; to which there are amendments not relevant to these regulations

reasonable and the amount applicable under this regulation shall be calculated as if the loan were a loan to which regulation 16 applied.''.

(5) In regulation 21 (restriction where amounts excessive), for paragraphs (1) and (2) there shall be substituted the following paragraph—

''(1) Subject to paragraphs (3) and (4), the amounts applicable under regulations 16 to 19 shall be regarded as excessive and shall be restricted and the excess not allowed if and to the extent that—

(*a*) the home, excluding any part which is let or is normally occupied by boarders, is unnecessarily large for the assessment unit, any persons to whom regulation 4(2)(*e*) of the Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1981(**a**) applies and any other non-dependants; or

(*b*) the immediate area in which the home is located is unnecessarily expensive; or

(*c*) the outgoings of the home in respect of which the amounts are applicable under those regulations as aforesaid are unreasonably high by comparison with the outgoings of suitable alternative accommodation in the area.''.

Amendment of the Resources Regulations

3.—(1) The Resources Regulations shall be amended in accordance with paragraph (2).

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

(*a*) after sub-paragraph (*w*) of paragraph (2) there shall be added the following sub-paragraph—

''(*x*) any payment received under an insurance policy taken out to insure against the risk of being unable during any period to maintain payments on a loan to which regulation 16 or 18 of the Requirements Regulations applies, less any amount which falls to be disregarded by virtue of paragraph (4)(*n*)(**b**).'';

(*b*) after sub-paragraph (*m*) of paragraph (4) there shall be added the following sub-paragraph—

''(*n*) in the case of a loan specified in regulation 16 or 18 of the Requirements Regulations, any payment received under a policy specified in paragraph (2)(*x*) and used to meet repayments in respect of that loan, to the extent that it does not exceed—

(i) subject to paragraph (4B)(**c**), the amount, calculated on a weekly basis, of the claimant's eligible interest under regulation 16 or 18 of the Requirements Regulations,

(ii) the amount of the payment, calculated on a weekly basis, due on the loan attributable to the repayment of capital, and

(iii) an amount equal to the amount, calculated on a weekly basis, of the premiums due on that policy.'';

(**a**) S.R. 1981 No. 373
(**b**) *See* regulation 3(2)(*b*) of these regulations
(**c**) *See* regulation 3(2)(*c*) of these regulations

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

"(4B) Payments to which paragraph (4)(*n*) applies shall be disregarded by virtue of head (i) of that provision only for any period during which there is applicable to the claimant as a housing requirement 50 per cent. of his eligible interest by virtue of regulation 16(1)(*b*)(ii) of the Requirements Regulations.".

Sealed with the Official Seal of the Department of Health and Social Services on 19th January 1987.

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

The Department of Finance and Personnel hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 19th January 1987.

(L.S.) *R. G. Smartt*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend Part IV of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983 (''the Requirements Regulations'') (which sets out the housing requirements of supplementary benefit claimants) in the following respects:

— regulation 14 is amended so that, where the home is included in a hereditament or premises of which a part only is rated or assessed as a dwelling the amounts applicable under regulation 16 or 18 are limited to the proportion of the amounts applicable in respect of the hereditaments or premises as a whole equal to the proportion so rated or assessed;

— a new regulation 16 is substituted by which restrictions are placed on the amount of mortgage interest which will be met as a housing requirement during the first 16 weeks of benefit where the claimant or his partner is aged less than 60 and he was not in receipt of benefit prior to the coming into operation of this regulation;

— regulation 18 is amended so that interest on loans for repairs or improvements to the home is treated in the same way as interest on a loan which qualifies under regulation 16;

— regulation 21 is amended so that the amounts applicable as housing requirements under regulations 16 to 19 are restricted where the outgoings of the claimant's home are unreasonably high by comparison with the outgoings of suitable alternative accommodation in the locality.

In addition, regulation 3 amends the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984 to provide that any income received under the terms of an insurance policy taken out to insure against the risk of the claimant being unable to meet the interest on a loan to which regulation 16 or 18 of the Requirements Regulations applies is, subject to certain exceptions, to be taken into account in full as a resource.

The regulations correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.