1987 No. 172

SOCIAL SECURITY

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

Made	*3rd April 1987*
Coming into operation . .	*6th April 1987*

The Department of Health and Social Services, in exercise of the powers conferred on it by paragraph 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 (Resources) (Amendment) Regulations (Northern Ireland) 1987 and shall come into operation on 6th April 1987.

(2) In these regulations "the principal regulations" means the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984(**c**).

Amendment of regulation 2(1) of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation)—

(*a*) after the definition of "claimant" there shall be inserted the following definition—

" "concessionary payment" means a payment made otherwise than in accordance with the Order, the Act, the Child Benefit (Northern Ireland) Order 1975(**d**), the Family Income Supplements Act (Northern Ireland) 1971(**e**), the Social Security (Northern Ireland) Order 1982(**f**) or the Housing Benefits (Northern Ireland) Order 1983(**g**) under arrangements made by the Department with the consent of the Department of Finance and Personnel which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit under any of the enactments referred to is charged;";

(**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. 1984 No. 54; the relevant amending regulations are S.R. 1984 No. 278, S.R. 1985 Nos. 84, 206 and 336, S.R. 1986 No. 236 and S.R. 1987 No. 5

(**d**) S.I. 1975/1504 (N.I. 16)

(**e**) 1971 c. 8

(**f**) S.I. 1982/1084 (N.I. 16)

(**g**) S.I. 1983/1121 (N.I. 14

(*b*) after the definition of "life policy" there shall be inserted the following definition—

" "local authority" has the meaning assigned to it in section 107 of the Children Act 1975(**a**);".

Amendment of regulation 3(2) of the principal regulations

3. In regulation 3(2) of the principal regulations (calculation of resources) after sub-paragraph (*h*) there shall be added the following sub-paragraph—

"(*i*) any payment made by a local authority pursuant to section 34(6) or, as the case may be, section 50 of the Children Act 1975(**a**) (custodianship payments), which represents a commutation of future periodical payments, shall be treated as an income resource in accordance with regulation 9(2)(*g*).".

Amendment of regulation 4 of the principal regulations

4. In regulation 4 of the principal regulations (notional resources) for paragraph (4) there shall be substituted the following paragraphs—

"(4) Where in determining the amount of a student's grant or award an education authority has treated a contribution from his parent or spouse as applicable under the Awards Regulations, the student shall be treated as possessing an income resource of an amount equal to the amount of that contribution.

(4A) For the purposes of paragraph (4) "student" includes a person who was a student immediately before the first day of his normal summer vacation but does not include a person to whom regulation 6(*a*), (*i*) or (*j*) of the Conditions of Entitlement Regulations(**b**) applies.".

Amendment of regulation 6(1) of the principal regulations

5. In regulation 6(1) of the principal regulations (capital resources to be disregarded) after sub-paragraph (*l*) there shall be added the following sub-paragraphs—

"(*m*) any payment made by a local authority pursuant to section 34(6) or, as the case may be, section 50 of the Children Act 1975 (custodianship payments), other than a payment to which regulation 3(2)(*i*) applies, which is—

(i) a commutation of periodical payments for maintenance in respect of a past period, or

(ii) a payment which if it were income would be disregarded by virtue of regulation 11(4)(*j*);

(*n*) for a period not exceeding 12 months from the date of receipt, any concessionary payment which is in respect of arrears of—

(i) attendance or mobility allowance under the Act,

(ii) supplementary benefit,

(iii) housing benefit.".

(**a**) 1975 c. 72, section 34 is amended by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c.22)

(**b**) S.R. 1981 No. 371; the relevant amending regulations are S.R. 1982 No. 295 and S.R. 1986 No. 266

Amendment of regulation 9(2) of the principal regulations

6. In regulation 9(2) of the principal regulations (calculation of income resources) after sub-paragraph (*f*) there shall be added the following sub-paragraph—

"(*g*) where a payment is one to which regulation 3(2)(*i*) applies—

(i) for the purposes of sub-paragraph (*a*) the period in respect of which the payment is to be taken into account is the period which would have applied had the commutated payments been made periodically, and

(ii) for the purposes of sub-paragraph (*b*), the payable date is the date on which the commutated payments would have been payable if made periodically, and

(iii) the weekly rate of the payment shall be determined by dividing the amount of the payment by the number of weeks for which the payment is to be attributed in accordance with head (i) and sub-paragraph (*a*).".

Amendment of regulation 11 of the principal regulations

7. In regulation 11 of the principal regulations (calculation of other income)—

(*a*) in paragraph (2)(*h*) for "for his maintenance" there shall be substituted "for his or his partner's maintenance";

(*b*) in paragraph (2)(*m*) after "sum of £2" there shall be added "and in this sub-paragraph "student" includes a person who was a student immediately before the first day of his normal summer vacation";

(*c*) in paragraph (2)(*u*) for head (ii) there shall be substituted the following head—

"(ii) where the student is not in receipt of a grant or award, the ordinary maintenance requirement specified in Part I of Schedule 7 to the Awards Regulations in respect of a student attending a course at, the University of London or at an establishment within the area comprising the City of London and the metropolitan police district, elsewhere or residing at his parent's home;";

(*d*) in paragraph (2)(*v*) for head (ii) there shall be substituted the following head—

"(ii) where the first mentioned person was not in receipt of a grant or award, the ordinary maintenance requirement specified in Part I of Schedule 7 to the Awards Regulations in respect of a student attending a course at, the University of London or at an establishment within the area comprising the City of London and the metropolitan police district, elsewhere or residing at his parent's home;";

(*e*) after paragraph (2)(*x*) there shall be added the following sub-paragraphs—

"(*y*) any payment of statutory maternity pay under Part VI of the Social Security (Northern Ireland) Order 1986(**a**);

(*z*) subject to paragraphs (4)(*p*) and (5)(*b*), any concessionary payment made which represents payment in respect of any benefit under the Act, the Child Benefit (Northern Ireland) Order 1975 or the Family Income Supplements Act (Northern Ireland) 1971.";

(*f*) in paragraph (4)—

(i) in sub-paragraph (*d*) at the end of head (v) there shall be added the following—

"and, in this sub-paragraph, reference to "a student" includes a reference to a person who was a student immediately preceding the first day of his normal summer vacation;",

(ii) in sub-paragraph (*n*) for head (i) there shall be substituted the following head—

"(i) subject to paragraph (4B), the amount, calculated on a weekly basis, of any interest which is excluded by regulation 16(1)(*b*)(ii) of the Requirements Regulations(**b**) from the amount applicable under regulation 16 or 18 of those regulations,",

(iii) after sub-paragraph (*n*) there shall be added the following sub-paragraphs—

"(*o*) any payment made in pursuance of section 34(6) or, as the case may be, section 50 of the Children Act 1975 (contributions to a custodian towards the cost of the accommodation and maintenance of a child) by a local authority, in respect of a person, to a member of the assessment unit with whom that person has his home, to the extent that its weekly amount is in excess of the aggregate of the normal and any additional requirements which are applicable for the same period in respect of that person;

(*p*) any concessionary payment, other than a payment to which paragraph (2)(*q*) applies (interim payments), made in respect of—

(i) any payment of attendance allowance or any payment based on a need for attendance as is specified in heads (i) to (iii) of sub-paragraph (*b*), unless paragraph (4A) would have applied to that payment had it been a payment of attendance allowance under section 35(3) of the Act,

(ii) any payment of mobility allowance, or

(iii) any pension or allowance.";

(*g*) in paragraph (5)(*b*) for "or any analogous payment" there shall be substituted ", any analogous payment or any concessionary payment made which represents a payment in respect of those benefits or payments first mentioned in this sub-paragraph".

(**a**) S.I. 1986/1888 (N.I. 18)

(**b**) S.R. 1983 No. 61; the relevant amending regulations are S.R. 1983 No. 247 and S.R. 1987 No. 5

Transitional provision

8. Where—

(*a*) a person was in receipt of an allowance immediately before 6th April 1987; and

(*b*) in the calculation of his resources there was taken into account under regulation 11(2)(*h*) of the principal regulations, as in operation immediately before 6th April 1987, any allowance for his maintenance; and

(*c*) that person continues to be in receipt of an allowance and such a maintenance allowance,

regulation 7(*a*) of these regulations shall not apply to him, and his maintenance allowance shall continue to be taken into account only to the extent that regulation 11(2)(*h*) of the principal regulations as in operation immediately before 6th April 1987 provided.

Sealed with the Official Seal of the Department of Health and Social Services on 3rd April 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 6th April 1987.

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

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984.

They provide for the disregard of custodianship payments made by a local authority in Great Britain which represent a specific payment for a need not met by supplementary benefit or housing benefit and arrears of periodical payments for maintenance, and also to treat an advance of future periodical payments as income to be attributed for the same period as the individual payments would have been, had they been paid periodically, and disregard the excess of any custodianship payment in excess of the child's normal and additional requirements (regulations 3, 5, 6 and 7(*f*)).

They provide that a student is to be treated as possessing income of an amount equal to the assessed parental or spouse's contribution to the grant except in the case of an exempted student (regulation 4).

They provide that extra-statutory payments should be disregarded or taken into account as a resource to the same extent as the benefit which they represent, and provide for the disregard of only that amount of a payment under a mortgage protection insurance policy used to meet mortgage interest payments to the extent that that interest is not included as a housing requirement (regulations 5, 7(*e*), (*f*) and (*g*)).

They provide that income in the form of a Department of Economic Development maintenance allowance in respect of a claimant's partner, is to be taken fully into account except where the claimant was in receipt of such an allowance and receiving supplementary benefit before 6th April 1987, and that any statutory maternity pay is also to be taken fully into account as income (regulations 7(*a*) and (*e*) and 8).

They provide that any grant income in excess of the standard maintenance grant of a student, and any income under a Deed of Covenant made by the student's parent or spouse in excess of that person's assessed contribution to the student's grant or, where the student is not in receipt of a grant, an amount equal to the standard maintenance grant in his case, is to be taken fully into account as income (regulation 7(*b*), (*c*) and (*d*)).

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.