

1977 No. 229

SUPPLEMENTARY BENEFITS**The Supplementary Benefit (General) Regulations
(Northern Ireland) 1977***Made* 28th July 1977*Coming into operation* 29th July 1977**ARRANGEMENT OF REGULATIONS***Regulation*

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SCHEDULE—Revocations

The Department of Health and Social Services(a), in exercise of the powers conferred on it by sections 4(1), 7, 8(2), 11 and 18(1) of, and paragraphs 7 and 15 of Schedule 2 to, the Supplementary Benefits &c. Act (Northern Ireland) 1966(b) (as amended in the case of the said section 4(1) by Article 11(3) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(c)), and section 8 of the National Insurance &c. (No. 2) Act (Northern Ireland) 1969(d), and Article 14 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977, and with the consent of the Department of Finance(a) where required(e), 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 Supplementary Benefit (General) Regulations (Northern Ireland) 1977 and shall come into operation on 29th July 1977.

(a) Formerly Ministry: see 1973 c. 36 Sch. 5 para. 8(1)

(b) 1966 c. 28 (N.I.)

(c) S.I. 1977/610 (N.I. 11)

(d) 1969 c. 19 (N.I.)

(e) See 1966 c. 28 (N.I.) section 4(1) as amended by S.I. 1977/610 (N.I. 11) Article 11(3)

(2) In these regulations—

“the Act” means the Supplementary Benefits &c. Act (Northern Ireland) 1966;

“the Order” means the Health and Personal Social Services (Northern Ireland) Order 1972(f);

“the Social Security Act” means the Social Security (Northern Ireland) Act 1975(g);

“the Department” means the Department of Health and Social Services;

“allowance” means a supplementary allowance;

“Appeal Tribunal” means an Appeal Tribunal constituted in accordance with the provisions of Schedule 3 to the Act;

“the claimant” means a person who has claimed benefit;

“pension” means a supplementary pension.

(3) Any notice or other document required or authorised to be given or sent to any person under the provisions of these regulations shall be deemed to have been given or sent if it was sent by post to that person at his ordinary or last known address.

Modification of condition requiring residence in the United Kingdom for qualifying period

2.—(1) It shall be an exception to the requirement of section 7 of the Act that a person who has not been resident in the United Kingdom for a period of 5 years immediately preceding the date on which his application for benefit was made shall be treated for the purposes of that section as if he had been resident in the United Kingdom:

(a) during any period during which he was—

(i) employed as a member of any of Her Majesty's Forces;

(ii) employed on board any ship, vessel, hovercraft or aircraft in an employment which for the purposes of the Social Security Act has been treated as an employed earner's employment;

(iii) employed under a contract of service by an employer having a place of business in the United Kingdom, having been resident in the United Kingdom immediately before becoming so employed;

(iv) resident in a country with which a convention or agreement (being a convention or agreement under which in relation to benefit under the Act residence in that other country is treated as if it were residence in the United Kingdom) has been made providing for reciprocity in the matter of benefit under the Act and of comparable benefit under the legislation of that other country for persons whose resources are insufficient to meet their requirements, being a person to whom the convention or agreement applies; or

(v) not resident in the United Kingdom, having been resident therein before the commencement of that period, for any cause which in the opinion of the Commission was in all the circumstances reasonable;

or

(b) being a man whose requirements are taken under paragraph 3 of Schedule 2 to the Act to include those of his wife or of a person who is or was a child of hers, during any period, whether before or after the date of the marriage, during which the said wife was—

(f) S.I. 1972/1265 (N.I. 14)

(g) 1975 c. 15

- (i) resident in the United Kingdom; or
- (ii) a person to whom sub-paragraph (a) would have applied if she had made an application for benefit;

or

- (c) being a woman who is or has been married, during any period, whether before or after the date of her marriage but before its termination, during which her husband was—
 - (i) resident in the United Kingdom; or
 - (ii) a person to whom sub-paragraph (a) would have applied if he had made an application for benefit.

(2) Paragraph (1)(b) shall apply similarly as regards the man where two persons who are not married to each other are or have been living together as husband and wife and paragraph (1)(c) shall apply similarly as regards the woman where 2 persons who are not married to each other but have been living together as husband and wife, have ceased to live together, and her requirements are taken under paragraph 3 of Schedule 2 to the Act to include those of a person who is or was a child of theirs; and in either case the references in those provisions to a wife and to a husband shall be construed accordingly and the references to the date of marriage and to its termination shall be construed respectively as references to the date on which they commenced living together as husband and wife and to the termination of so living together.

(3) In this regulation the expression "wife" in relation to a man who has been married more than once and the expression "husband" in relation to a woman who has been married more than once refer respectively only to his last wife and to her last husband.

Persons in full-time employment

3. Section 8(1) of the Act (exclusion of persons in full-time employment) shall not apply to a person becoming engaged in remunerative full-time work until the expiration of a period of 15 days from the beginning of the engagement.

Registration for employment

4.—(1) Where the Commission determine under section 11 of the Act that the right of any person to an allowance shall be subject to the condition that he is registered for employment he shall be so registered in the following manner—

- (a) by registering in accordance with regulations having effect for the purposes of the Employment and Training Act (Northern Ireland) 1950(h); and
- (b) by attending at a social security office on such occasions as he would be required to attend if he were claiming unemployment benefit under the Social Security Act and there signing a form approved by the Department and including a declaration as to his unemployment and ability and willingness to do any suitable work.

(2) For the purpose of this regulation, "social security office" includes any office or place appointed by the Department for the purpose of claiming unemployment benefit under the Social Security Act.

Net weekly earnings

5.—(1) For the purposes of Schedule 2 to the Act a person's net weekly earnings shall be the net remuneration or profit, calculated on a weekly basis, derived by him from any occupation or occupations and, in particular, in so far as the earnings consist of salary or wages, there shall be deducted—

- (a) any sum the deduction of which from salary or wages is authorised by statute; and
- (b) any expenses reasonably incurred by him in connection with his employment.

(2) Where the actual earnings of a person for a week are not immediately ascertainable for the purposes of calculating his net weekly earnings under paragraph (1), his net weekly earnings shall be estimated on the basis of such information as he is able to supply and such other relevant information as is available.

Certain sums to be earnings

6. For the purposes of the Act, any such sum as is referred to in Article 14 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(i) (certain sums to be earnings for social security purposes) shall be deemed to be earnings of the person entitled to receive such sum in respect of the period to which it relates.

Persons in residential homes

7.—(1) Subject to the provisions of paragraph (2) for the purpose of calculating the requirements of a person for whom accommodation which includes board and other services is provided under Articles 15 and 36 of the Order the sum of £3.05 shall be the prescribed amount by which those requirements are to be taken as exceeding the rate applicable to his case for the time being determined by the Department under Article 99(2) of the Order as the lower rate of payment in respect of certain accommodation for persons in need.

(2) Where the person referred to in paragraph (1) is someone to whom there is payable attendance allowance under the provisions of section 35 of the Social Security Act or constant attendance allowance under any Personal Injuries Scheme, Service Pensions Instrument or any 1914-1918 War Injuries Scheme, the sum of £3.05, prescribed in paragraph (1) shall be increased by the amount of such allowance.

(3) In this regulation "Personal Injuries Scheme", "Service Pensions Instrument" and "1914-1918 War Injuries Scheme" have the same meanings as in the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1975(j).

Fractional amounts of requirements and resources

8. Where a person's requirements or resources taken into consideration under Schedule 2 to the Act include a fraction of a penny, that fraction shall be treated as a penny if it relates to requirements and shall be disregarded if it relates to resources.

(i) S.I. 1977/610 (N.I. 11)

(j) S.R. 1975 No. 94 (I, p. 561)

Duration of awards of pensions and allowances

9.—(1) The Commission or an Appeal Tribunal may award a pension or allowance at a weekly rate—

- (a) for a specified period consisting of a week or of a number of weeks; or
- (b) for an indefinite period.

(2) Notwithstanding paragraph (1), the Commission or an Appeal Tribunal may in any particular case or class of cases award a pension or allowance for a specified period which is not a week or a multiple of a week.

Review of determinations made by the Commission or an Appeal Tribunal

10.—(1) Subject to the provisions of paragraph (2), a determination made by the Commission or by an Appeal Tribunal on the right to or amount of pension or allowance in respect of any period may be reviewed by the Commission if—

- (a) the Commission are satisfied that the determination was made in ignorance of, or was based on a mistake as to, some material fact; or
- (b) there has been any relevant change of circumstances since the determination was made and the determination on review would result in—
 - (i) an increase in the amount of pension or allowance payable; or
 - (ii) except where payment of sums on account of a pension or allowance is made by a book of a series of orders, any decrease in the amount of pension or allowance payable; or
 - (iii) a decrease of not less than £0.50 in the amount of pension or allowance payable where payment of sums on account of that pension or allowance is made by a book of a series of orders.

(2) Where a review under paragraph (1) arises from a material fact or relevant change of circumstances of which a claimant was aware but of which he previously failed to furnish information to the Department, then if that review would result in an increase in the amount of pension or allowance payable, that increase shall not be payable from a date earlier than 52 weeks before the week in which the claimant first furnished that information.

(3) A determination made by the Commission or by an Appeal Tribunal on any of the following matters—

- (a) the issue of benefit to a person other than the claimant;
- (b) the imposition of a condition under section 11 of the Act;
- (c) the provision of goods or services instead of the whole or part of any payment;

may be reviewed by the Commission in respect of such period as the Commission may determine having regard to the circumstances of the case if—

- (i) there has been any relevant change of circumstances since the original determination was made, or
- (ii) the Commission are satisfied that the determination was made in ignorance of, or was based on a mistake as to, some material fact.

(4) A determination made by the Commission or by an Appeal Tribunal on any of the following matters—

- (a) the recovery of the whole or part of any sums paid by virtue of section 13 of the Act;
- (b) the amount of any excess mentioned in section 17 of the Act;

(c) the right to or amount of benefit under section 6 of the Act; may be reviewed by the Commission if—

(i) the Commission are satisfied that the determination was made in ignorance of, or was based on a mistake as to, some material fact, or

(ii) in the case of sub-paragraphs (a) and (c) there has been any relevant change of circumstances since the original determination was made.

(5) Any determination made by the Commission on a matter specified in the preceding paragraphs may be reviewed by them if they are satisfied that it was based on a mistake as to the law but any such review shall not be made in respect of a period of more than 52 weeks before the date on which a claimant requested or the date on which the Commission made the review, whichever is the earlier.

(6) A determination made by the Commission or by an Appeal Tribunal may be reviewed by the Commission for the sole purpose of giving effect to any change in—

(a) the amounts specified in Part II of Schedule 2 to the Act (calculation of requirements); or

(b) the rate determined for the purposes of Article 99(2) of the Order (lower rate of payment in respect of certain accommodation for persons in need); or

(c) the sum prescribed by regulations made under paragraph 15 of Schedule 2 to the Act (requirements of persons in residential homes); or

(d) the appropriate amount for the purpose of paragraph 16 or 17 of that Schedule (persons in hospital and persons paying for board and lodging) in consequence of any other change mentioned in this paragraph; or

(e) the rates of any payments referred to in paragraph 24(2)(a), (b), (c) and (e), 24(3) to (7) of that Schedule (which relate to resources derived from social security benefits, certain pensions and other payments);

but any such change shall be deemed not to be a change of circumstances for the purpose of paragraph (1).

Review of determinations imposing misconduct reduction

11. Where under paragraph 11 of Schedule 2 to the Act (persons disqualified for unemployment benefit) the amount applicable to a person's requirements under paragraph 9 or 10 of that Schedule has been reduced for any period and on final determination of the question of his right to unemployment benefit under the Social Security Act or of a question under section 98(1)(c) of that Act whether a person would have been disqualified if otherwise entitled to unemployment benefit, if—

(a) disqualification under section 20(1) of the Social Security Act (disqualification by reference to conduct resulting in unemployment or conducing to its continuance) is not imposed or would not have been imposed; or

(b) the period of such disqualification or notional disqualification is shorter than the period of reduction under the said paragraph 11;

the allowance determination imposing the reduction may be reviewed by the Commission.

Date of commencement, change and termination of entitlement to pensions and allowances

12.—(1) Where apart from the provisions of this regulation—

- (a) the day of the week on which a person's entitlement to a pension or allowance would begin is not the first day of a benefit week, entitlement to that pension or allowance shall not begin until the first day of the next benefit week;
- (b) the day of the week on which a change in the amount of a person's pension or allowance (made on a review by the determining authority under regulation 10 or 11) would take effect is not the first day of a benefit week, that change shall take effect—
 - (i) if the review is made under regulation 10(6), from the first day of the next benefit week, and
 - (ii) in any other case, from the first day of either that benefit week or of the next benefit week as the determining authority in its discretion determines; and
- (c) the day on which a person's entitlement to a pension or an allowance would end is not the last day of a benefit week, entitlement to that pension or allowance shall continue until (and including) that day.

(2) In this regulation—

- (a) "benefit week" in relation to a person entitled to a pension or allowance means—
 - (i) where the person is in receipt of unemployment benefit, the period of 7 days beginning with the day of the week on which that benefit is payable;
 - (ii) where the person is not in receipt of unemployment benefit but is subject to the condition of registration for employment under section 11 of the Act, the period of 7 days beginning with the day of the week on which, if he had been in receipt, unemployment benefit would have been payable;
 - (iii) where the person is in receipt of a social security benefit, other than unemployment benefit, and head (ii) does not apply, the period of 7 days beginning with the day on which that benefit is payable or, if such benefits are payable to that person on more than one day of the week, on such one of those days as the determining authority shall determine;
 - (iv) where none of heads (i) to (iii) applies, the period of 7 days beginning on Monday; or
 - (v) where the determining authority so determines in any particular case or class of cases, the period of 7 days beginning on some day of the week other than that which would otherwise be applicable under heads (i) to (iv);
- (b) "determining authority" means as the case may require, the Commission or Appeal Tribunal;
- (c) the "Social Security Regulations" means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1975(k), as amended(l);
- (d) "social security benefit" means any of the following benefits which is being paid weekly by means of a book of a series of orders or by giro order—

(k) S.R. 1975 No. 104

(l) The relevant amending regulations are S.R. 1975 No. 202 (II, p. 1036), S.R. 1976 No. 99, S.R. 1976 No. 321.

- (i) unemployment benefit,
- (ii) widow's benefit,
- (iii) benefit which by virtue of section 39(4) of the Social Security Act corresponds to a widow's pension or a widowed mother's allowance,
- (iv) retirement pension of any category,
- (v) any other benefit payment of which falls to be made under regulations 14 to 17 of the Social Security Regulations (time and manner of payment of certain benefits) and which is paid through an office of the Department at which the Department has made arrangements for joint payment of that benefit and of a pension or allowance where they are paid on the same day of the week,

but excluding, in relation to benefit within head (iii) and to any Category C or D retirement pension within head (iv), any case in which payment falls to be made, in accordance with regulation 19 of the Social Security Regulations (time of payment of such benefits to those in receipt of supplementary benefit), on the day on which the pension or allowance is paid;

- (e) references to the day on which a social security benefit is payable are to the day on which it is payable under regulations 14 to 17 of the Social Security Regulations except that in the case of a benefit payable under regulation 14 of those regulations such references are to—
 - (i) in the case of unemployment benefit, the day of the week following the day on which a giro order in payment of the benefit would normally be posted;
 - (ii) in the case of any such benefit, other than unemployment benefit, which is being paid by means of a series of orders, the day of the week which is the due date specified for payment in the relevant order; and
 - (iii) in the case of any such benefit, other than unemployment benefit, which is being paid by means of a giro order, the day of the week on which the giro order would normally be posted.

(3) This regulation shall not apply where a pension or allowance is awarded under regulation 9(2), for a specified period which is not a week or a multiple of a week.

Notice of decisions

13.—(1) This regulation applies to the following decisions of the Commission:

- (a) a determination made by the Commission on any claim;
- (b) a determination made by the Commission on a review under regulation 10 or 11;
- (c) a refusal by the Commission to review a determination under regulation 10 or 11;

(2) Subject to paragraphs (3) and (4), notice of any decision to which this regulation applies shall be given or sent to the claimant in writing.

(3) Where the determination concerned relates to the making of, or refusal to make, a cash payment in respect of benefit other than a pension, the notice required by paragraph (2) may be given to the claimant orally unless he requests that it be in writing.

(4) Where the Commission determine that the claimant is entitled to benefit of an amount which, when added to some other payment, if any, payable by the Department will amount to a stated sum, notice of that sum shall be notice for the purposes of this regulation.

Revocations:

14. The regulations specified in column (2) of the Schedule are hereby revoked to the extent mentioned in column (3) of that Schedule.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 26th July 1977.

(L.S.)

W. J. Sloane
Assistant Secretary

The Department of Finance for Northern Ireland hereby consents to the making of regulation 12.

Sealed with the Official Seal of the Department of Finance for Northern Ireland on 28th July 1977.

(L.S.)

F. G. Dougall
Assistant Secretary

SCHEDULE

Regulation 14

Revocations

<i>Regulations</i> (1)	<i>Citation</i> (2)	<i>Extent of revocation</i> (3)
S.R. & O. (N.I.) 1966 No. 188 (p. 587)	The Supplementary Benefit (General) Regulations (Northern Ireland) 1966	The whole regulations.
S.R. & O. (N.I.) 1967 No. 206 (p. 736)	The Supplementary Benefit (General) Amendment Regulations (Northern Ireland) 1967	The whole regulations.
S.R. & O. (N.I.) 1968 No. 265 (p. 1098)	The Supplementary Benefit (General) Amendment Regulations (Northern Ireland) 1968	The whole regulations.
S.R. & O. (N.I.) 1969 No. 43 (p. 197)	The Supplementary Benefit (General) Amendment Regulations (Northern Ireland) 1969	The whole regulations.
S.R. & O. (N.I.) 1970 No. 327 (p. 1448)	The Supplementary Benefit (Decimatisation of the Currency) Regulations (Northern Ireland) 1970	The whole regulations.
S.R. & O. (N.I.) 1971 No. 339 (p. 1568)	The Supplementary Benefit (General) Amendment (No. 2) Regulations (Northern Ireland) 1971	The whole regulations.
S.R. & O. (N.I.) 1972 No. 276 (p. 1456)	The Supplementary Benefit (General) Amendment (No. 3) Regulations (Northern Ireland) 1972	The whole regulations.
S.R. & O. (N.I.) 1973 No. 383 (II, p. 2160)	The Supplementary Benefit (General and Require- ments) Amendment Regulations (Northern Ireland) 1973	The whole regulations.
S.R. 1975 No. 271 (II, p. 1278)	The Supplementary Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1975	The whole regulations.
S.R. 1976 No. 314	The Supplementary Benefit (General) (Amendment) Regulations (Northern Ireland) 1976	The whole regulations.
S.R. 1977 No. 99	The Supplementary Benefit (General) (Amendment) Regulations (Northern Ireland) 1977	The whole regulations.

EXPLANATORY NOTE

(This note is not part of the regulations but is intended to indicate their general purport.)

These regulations consolidate with minor amendments the Supplementary Benefit (General) Regulations (Northern Ireland) 1966 and the subsequent amending regulations set out in the Schedule which are revoked to the extent shown in that Schedule by regulation 14.

Regulations 9 and 12 contain detailed provisions relating to the period for which a supplementary pension or allowance may be awarded to a person and the date on which entitlement to such a pension or allowance shall commence, change and terminate.

The other amendments are of a drafting or consequential nature.