

1988 No. 369

SOCIAL SECURITY

**The Social Security (Common Provisions)
(Miscellaneous Amendments) Regulations
(Northern Ireland) 1988**

Made 14th October 1988

Coming into operation 7th November 1988

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 100(2), 104(5)(b) and 114(2) of the Social Security (Northern Ireland) Act 1975(a) and Articles 52(1) and 54 of the Social Security (Northern Ireland) Order 1986(b) 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 Social Security (Common Provisions) (Miscellaneous Amendments) Regulations (Northern Ireland) 1988 and shall come into operation on 7th November 1988.

(2) In these regulations—

“the Adjudication Regulations” means the Social Security (Adjudication) Regulations (Northern Ireland) 1987(c);

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(d); and

“the Payments on account, Overpayments and Recovery Regulations” means the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(e).

(3) The Interpretation Act (Northern Ireland) 1954(f) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendment of the Adjudication Regulations

2.—(1) The Adjudication Regulations shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 53(d) (definition of “medical question”) for “for locomotion,” there shall be substituted “for locomotion; or”.

(3) After paragraph (d) of regulation 53 there shall be added the following paragraph—

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- (a) 1975 c. 15; section 100(2) was amended by Article 53 of, and paragraph 5(b) of Schedule 5 to, the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)). Section 104(5)(b) was inserted by Article 53 of, and paragraph 9(d) of Schedule 5 to, that Order
- (b) S.I. 1986/1888 (N.I. 18)
- (c) S.R. 1987 No. 82; the relevant amending regulations are S.R. 1987 No. 466
- (d) S.R. 1987 No. 465; the relevant amending regulations are S.R. 1988 Nos. 67 and 141
- (e) S.R. 1988 No. 142
- (f) 1954 c. 33 (N.I.)

“(e) which would have been a question under paragraphs (a), (b) and (d) on the day before he attained the age of 65, in the case of a person who is over the age of 65 but under the age of 66 at the date on which the claim is received or treated as received,”.

(4) In regulation 54 (date for the determination of medical questions) after “any medical question” there shall be inserted “except a question under regulation 53(e)”.

(5) In regulation 63(6)(c) (notification of decisions in income support cases) for “Article 24(8)” there shall be substituted “Article 24A”(a).

(6) In regulation 65(3)(b) (review of decisions involving payment or increase of benefit other than industrial injuries benefit, mobility allowance, income support or family credit) for “section 79(3)(d) of the 1975 Act” there shall be substituted “Article 52(1)(f) of the 1986 Order”.

(7) In regulation 71 (review in social fund maternity and funeral expenses cases) after “maternity or funeral expenses” there shall be inserted “or expenses for heating, which appear to the Department to have been or to be likely to be incurred in cold weather,”.

Amendment of the Claims and Payments Regulations

3.—(1) The Claims and Payments Regulations shall be amended in accordance with paragraphs (2) to (8).

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

(a) in the definition of “benefit” for “in Article 33(2)(a) of the Order” there shall be substituted “in Article 33(2)(a) and (2A) of the Order”(b);

(b) after the definition of “partner” there shall be inserted the following definition—

“ “period of cold weather” has the meaning assigned to it in regulation 1(2) of the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988;”(c).

(3) In regulation 6(3) (date of claim) after “maternity or funeral expenses” there shall be inserted “or expenses for heating, which appear to the Department to have been or to be likely to be incurred in cold weather”.

(4) After regulation 15 there shall be inserted the following regulation—

“Cold weather payments

15A.—(1) Where a person claims a social fund payment to meet expenses for heating in respect of a period of cold weather and an award is made in respect of that claim then, in any other subsequent period of cold weather occurring between the end of that period and 30th April immediately following, the adjudicating authority may—

(a) treat the claim also as if made for that subsequent period; and

(b) award a social fund payment accordingly, subject to the condition

(a) Article 24A was inserted by paragraph 18 of Schedule 4 to the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2))

(b) Article 33(2A) was inserted by paragraph 1 of Schedule 3 to the Social Security (Northern Ireland) Order 1988

(c) S.R. 1988 No. 368

that the person satisfies the prescribed circumstances set out in regulation 2(1) of the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988.

(2) An award under paragraph (1)(b) shall be reviewed by the adjudicating authority if the prescribed circumstances are found not to have been satisfied in any subsequent period.”.

(5) In regulation 19(4) (time for claiming benefit) after “maternity or funeral expenses” there shall be inserted “or expenses for heating, which appear to the Department to have been or to be likely to be incurred in cold weather,”.

(6) In regulation 30(5) (payments on death) for “in Article 33(2)(a) of the Order” there shall be substituted “in Article 33(2)(a) and (2A) of the Order”.

(7) In regulation 34A(2) (deductions from benefit and direct payment to third parties) after “maternity or funeral expenses” there shall be inserted “or expenses for heating, which appear to the Department to have been or to be likely to be incurred in cold weather,”.

(8) In Schedule 4 (prescribed time for claiming benefit)—

(a) in column (1) (description of benefit) after paragraph 9 there shall be inserted the following paragraph—

“9A. Social fund payment to meet expenses for heating incurred in a period of cold weather.”; and

(b) in column (2) (prescribed time for claiming benefit) opposite paragraph 9A there shall be inserted—

“3 months from the last day of the period of cold weather recorded at the designated National Climatological Message Station appropriate to the claimant.”.

(c) after the definition of “confinement” there shall be inserted the following definition—

“ “designated National Climatological Message Station” means the station designated for the purposes of regulation 2 of, and the Schedule to, the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988.”

Amendment of the Payments on account, Overpayments and Recovery Regulations

4.—(1) The Payments on account, Overpayments and Recovery Regulations shall be amended in accordance with paragraph (2).

(2) In regulation 1(2) (interpretation) in the definition of “benefit” for “any payment under Article 33(2)(a) of the Order (maternity and funeral expenses)” there shall be substituted “any social fund payment under Article 33(2)(a) and (2A) of the Order”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 14th October 1988.

(L.S.)

P. A. Conliffe

Assistant Secretary

(This note is not part of the Regulations.)

These regulations amend the Social Security (Adjudication) Regulations (Northern Ireland) 1987 (“the Adjudication Regulations”), the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the Claims and Payments Regulations”) and the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988 (“the Payments on account, Overpayments and Recovery Regulations”) (collectively “the Common Provisions Regulations”). They correspond to provision contained in regulations made by the Secretary of State for Social Security 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.

Regulation 2(3) amends regulation 53 of the Adjudication Regulations by extending the definition of a medical question to include consideration of existing medical questions as at the day before his 65th birthday in the case of a person who when his claim is received or treated as received is over the age of 65 but under the age of 66. Regulation 2(7) amends regulation 71 of the Adjudication Regulations to limit any payment for heating expenses incurred in a period of cold weather following a review to twelve months.

Regulation 3 contains amendments consequential on the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988 for the purpose of claims for, and payments of, social fund payments in respect of expenses for heating incurred in cold weather. In particular regulation 3(4) inserts a new regulation 15A into the Claims and Payments Regulations to provide that where an award is made on a claim for such expenses that claim shall also be treated as a claim for other periods of cold weather occurring between the end of the first such period and the 30th April immediately following. Providing the claimant satisfies prescribed circumstances an award may be made accordingly. Further provision is made for the adjudicating authorities to review an award in the event of the prescribed circumstances not being met. Regulation 3(8) amends Schedule 4 to the Claims and Payments Regulations to prescribe the time for making a claim for such expenses as being three months from the last day of the period of cold weather recorded at a designated National Climatological Message Station relevant to the claimant.

The regulations also contain amendments to the Common Provisions Regulations of a minor nature flowing from the insertion of Articles 24A and 33(2A) into the Social Security (Northern Ireland) Order 1986 by the Social Security (Northern Ireland) Order 1988.