1979 No. 354

SOCIAL SECURITY

The Social Security (Determination of Claims and Questions) (Amendment) Regulations (Northern Ireland) 1979

Coming into operation . . . 5th November 1979

Made . . . . . 4th October 1979

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 119(3) and (4) of the Social Security (Northern Ireland) Act 1975(**a**), 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 (Determination of Claims and Questions) (Amendment) Regulations (Northern Ireland) 1979 and shall come into operation on 5th November 1979.

(2) In these regulations "the principal regulations" means the Social Security (Determination of Claims and Questions) Regulations (Northern Ireland) 1975(**b**).

Substitution of regulation 32 *of the principal regulations*

2. For the text of regulation 32 of the principal regulations there shall be substituted the following:—

"**32.**—(1) Subject to paragraph (3), this regulation has effect where—

(*a*) in pursuance of a decision under the Act, benefit has been paid for any period and—

(i) the effect of a decision given on appeal against, or review of, that decision is such that had it been given in the first instance the whole or part of that benefit would not have been paid, or

(ii) in a case where the first mentioned decision cannot be reviewed, the facts established for the purpose of a subsequent decision of an insurance officer, local tribunal or a Commissioner, other than a decision given on appeal against the earlier decision, are such that had they been known when the earlier decision was given the whole or part of that benefit would not have been paid,

and

(*b*) the Supplementary Benefits Commission certify that an additional amount of supplementary pension or allowance would have been paid to a person (whether or not the claimant) in receipt of such pension or allowance, but for the fact that that benefit, or such part of it as would not have been paid in the circumstances envisaged in paragraph (*a*)(i) or (ii), was taken into account as a resource in calculating his entitlement to such pension or allowance.

(**a**) 1975 c. 15; section 119 was amended by Article 9 of, and paragraph 8 of Schedule 3 to, the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I.5))

(**b**) S.R. 1975 No. 100 (I, p. 597) to which there are amendments not relevant to these regulations

(2) Where this regulation has effect, the decision on appeal or review, or the subsequent decision referred to in paragraph (1)(*a*)(ii), as the case may be, shall direct that benefit under the Act, to the extent of the additional amount shown in the certificate of the Supplementary Benefits Commission, was properly paid.

(3) Where benefit under the Act was paid for any period in respect of a child not living with, or an adult dependant not residing with, the claimant, paragraphs (1) and (2) shall not apply unless either—

(*a*) the claimant has or is deemed to have contributed to the cost of providing for that child, or has contributed to the maintenance of that adult dependant, as the case may be, at a weekly rate not less than the weekly rate of benefit paid to him in respect of that child or adult dependant; or

(*b*) it appears from the certificate of the Supplementary Benefits Commission that it is the claimant who has been paid less supplementary pension or allowance than he would have been paid had no benefit under the Act, or only a reduced amount of such benefit, been paid in respect of that child or adult dependant.

(4) In this regulation "supplementary pension" and "supplementary allowance" mean such a pension or allowance under the Supplementary Benefits (Northern Ireland) Order 1977(c) and any other expression used in this regulation to which a meaning is assigned by or under the Supplementary Benefits (Northern Ireland) Order 1977 or the Social Security (Northern Ireland) Act 1975 has that meaning."

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 4th October 1979.

(L.S.) *W. J. Sloane*
Senior Assistant Secretary

(c) S.I. 1977/2156 (N.I. 27)

EXPLANATORY NOTE

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

These regulations, which are made under section 119 of the Social Security (Northern Ireland) Act 1975 as amended by the Social Security (Northern Ireland) Order 1979, amend the Social Security (Determination of Claims and Questions) Regulations (Northern Ireland) 1975. They come into operation on 5th November 1979.

Regulation 2 substitutes new provisions for those of regulation 32 of the 1975 Regulations. The new paragraphs (1) and (2), which replace the former paragraph (1), continue to enable benefit, if paid under an earlier decision but subsequently by decision on review or appeal found not to be payable, to be treated as properly paid to the extent that, but for such payment, more pension or allowance under the Supplementary Benefits (Northern Ireland) Order 1977 would have been paid instead. The restriction of the former paragraph (1) to cases where repayment of benefit would have been required is removed and regulation 32 is extended to cases where there can be no review of a decision but where facts found for the purposes of a subsequent decision do not support payments made under the earlier one. Paragraph (3) makes exceptions from paragraphs (1) and (2) in respect of dependency benefits.