1980 No. 376

FAMILY INCOME SUPPLEMENTS

The Family Income Supplements (Claims and Payments) Regulations (Northern Ireland) 1980

Made . . . . . *24th October 1980*

Coming into operation . . . *24th November 1980*

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SCHEDULE — Revocations

The Department(**a**) of Health and Social Services, in exercise of the powers conferred on it by sections 5(2) and 10(2) of the Family Income Supplements Act (Northern Ireland) 1971(**b**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

(**a**) Formerly Ministry: *see* 1973 c. 36 Sch. 5 para. 8(1)
(**b**) 1971 c. 8 (N.I.)

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Family Income Supplements (Claims and Payments) Regulations (Northern Ireland) 1980, and shall come into operation on 24th November 1980 immediately after the coming into operation on that date of the Family Income Supplements (General) Regulations (Northern Ireland) 1980(**c**).

(2) In these regulations—

"the Act" means the Family Income Supplements Act (Northern Ireland) 1971;

"benefit" means a family income supplement under the Act;

"beneficiary" means a person by whom benefit is or was receivable and any person authorised or appointed to act for such a person;

"claim" means a claim for benefit;

"the Department" means the Department of Health and Social Services;

"determining authority" means, as the case may require, a supplement officer, the Appeal Tribunal as defined in section 7(3) of the Act or a Social Security Commissioner(**d**) within the meaning of the Social Security (Northern Ireland) Act 1975(**e**);

"instrument of payment" means a serial order and any other instrument whatsoever which is intended to enable a person to obtain payment of benefit;

"paying office" means such place as the Department may designate for the payment of benefit;

"serial order" means one of a series of orders for the payment of sums on account of benefit which is or has been contained in a book of such orders;

"supplement officer" shall have the same meaning as in section 16(1) of the Act(**f**).

PART II

CLAIMS

Manner in which claims are to be made and the date on which claims are deemed to be made

2.—(1) Every claim shall be made in writing on a form approved by the Department, or in such other manner, being in writing, as the Department may accept as sufficient in the circumstances of any particular case or class of cases and shall be delivered or sent to an office of the Department.

(2) The date on which a claim is made shall be the date on which it is received at an office of the Department (hereinafter referred to as "the relevant date"), so however that if—

(*a*) a person making a claim requests the Department to treat that claim as having been made on a date earlier than the relevant date, or the Department is aware that a claim which has been sent by post has not been delivered in the ordinary course of post; and

(*b*) the Department is satisfied that it was through no fault on the part of that person that the claim was not made on a date earlier than the relevant date,

(**c**) S.R. 1980 No. 375
(**d**) *See* section 12 of the Social Security Act 1980 (c. 30)
(**e**) 1975 c. 15
(**f**) Section 16(1) was amended by Article 8(6) of the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8))

the Department may treat the claim as having been made on a date earlier than the relevant date, being a date not more than three months before the relevant date.

(3) Forms of claim shall be supplied without charge by the Department or by such persons as the Department may appoint or authorise for that purpose.

(4) If a claim is defective at the date when it is received at an office of the Department, or has been made otherwise than on the form approved for the time being, the Department may, in its discretion, refer the claim to the person making it, or, as the case may be, supply him with the approved form, and if the form is returned properly completed within one month from the date on which it is so referred or supplied, the Department shall treat the claim as if it had been duly made in the first instance.

(5) A person who has made a claim may withdraw it at any time before a determination has been made on it by a notice in writing delivered or sent to an office of the Department.

(6) Any reference in the Act or in regulations to the date on which a claim is made shall—

(*a*) in the case of a claim which is treated as having been made on a date earlier than the relevant date under paragraph (2), be construed as a reference to the date on which such claim is so treated as having been made; and

(*b*) in the case of a claim which is treated as if it had been duly made in the first instance under paragraph (4), be construed as a reference to the date on which such claim is so treated as having been duly made.

(7) Where for the purposes of the Act a family includes both a man and a woman, the Department may, if it is satisfied that it would be unreasonable to require a joint claim, accept as a valid claim a claim made by the man alone or by the woman alone.

(8) No claim made by or on behalf of a person who was included in a family for which benefit is payable shall be entertained if it is made more than four weeks before the expiration of the period for which benefit is payable for that family.

Information to be given in connection with a claim

3. Every person who makes a claim shall furnish such certificates, documents, information and evidence in connection with the claim as may be required by the Department and, if reasonably so required, shall for that purpose attend at such office of the Department or other place as the Department may direct.

PART III

PAYMENTS

Time and manner of payment of benefit

4.—(1) Payment of benefit shall be made in such manner and at such times as the Department in any particular case or class of cases may determine.

(2) Instruments of payment and books of serial orders issued by the Department shall remain its property; and any person having such an instrument of payment or book of serial orders shall, on ceasing to be entitled to the benefit to which such instrument or book relates, or when so required by the Department, deliver the said instrument or book to the Department or to such person as it may direct.

(3) Where, by reason of any provision of the Act or of regulations, the date as from which benefit would commence, or as from which a change in the rate of benefit would take effect, is not a Tuesday, benefit shall commence only, or the change in the rate of benefit shall take effect only, as from the next Tuesday; and where the date on which benefit would cease to be payable is not a Monday, benefit shall continue to be payable in respect of the days of the week up to but not including the next Tuesday.

Extinguishment of right to payment of sums on account of benefit

5.—(1) The right to payment of any sum by way of benefit shall, subject to paragraph (2), be extinguished where payment thereof is not obtained within the period of twelve months from the date on which the right is to be treated as having arisen; and for the purposes of this regulation the right shall be treated as having arisen—

(*a*) in relation to any such sum contained in an instrument of payment which has been given or sent, for the purpose of making payment thereof, to the beneficiary or to a paying office for collection by him (whether or not received or collected as the case may be), notwithstanding that that sum is greater or less than the sum to which the beneficiary has the right to payment—

(i) on the date on the said instrument of payment; or

(ii) if a further instrument of payment has been so given or sent as a replacement for an instrument of payment previously given or sent, on the date on the last such instrument of payment;

(*b*) in relation to any such sum to which sub-paragraph (*a*) does not apply, but where notice is given (whether orally or in writing) or is sent that the sum contained in the notice is available for collection and notwithstanding that that sum is greater or less than the sum to which the beneficiary has the right to payment—

(i) if written notice is sent through the post, on the date on which it would be delivered in the ordinary course of post; and

(ii) in any other case, on the date of the notice;

and if more than one such notice is given or sent, on the date determined by reference to the first such notice;

(*c*) in relation to any such sum to which neither sub-paragraph (*a*) nor sub-paragraph (*b*) applies, on such date as the Department determines.

(2) Where a question arises whether the right to payment of any sum by way of benefit has been extinguished by the operation of this regulation and the determining authority is satisfied that—

(*a*) after the expiration of the said period of twelve months the Department has received written notice requesting payment of that sum; and

(*b*) throughout a period commencing within the said period of twelve months and continuing up to the day on which the said notice was given there was good cause for not giving that notice;

the said period of twelve months shall be extended to the date on which the determining authority decides that question, and for the purposes of the operation of this regulation thereafter the right to payment of that sum shall, notwithstanding the provisions of paragraph (1), be treated as having arisen on that date.

PART IV

MISCELLANEOUS PROVISIONS

Persons unable to act

6.—(1) Where a person by whom benefit is receivable or is alleged to be receivable is or becomes unable for the time being to act, the Department may, upon written application being made to it, appoint any person who has attained the age of eighteen, whom it may consider suitable and who is prepared to be so appointed, to exercise on behalf of the person unable to act any right to which that person may be entitled under the Act and to receive and deal with any sums payable on behalf of that

person; and the receipt of any person appointed under this regulation shall be a good discharge to the Department for any sum paid.

(2) The Department may at any time in its discretion revoke any appointment made under paragraph (1) and any person appointed under the said paragraph (1) may, on giving the Department not less than one month's notice in writing of his intention so to do, terminate his appointment.

Effect of death on claims and payments

7.—(1) A claim shall be treated as having lapsed if—

(*a*) in a case where a man and a woman were included in the family in respect of which the claim was made, that man and that woman have both died before any determination making benefit payable on the claim has been made;

(*b*) in any other case, where the man or the single woman included in the family in respect of which the claim was made has died before any determination making benefit payable on the claim has been made.

(2) On the death of a person by whom benefit is receivable, the Department may, upon written application being made to it, appoint such person who has attained the age of eighteen as it may consider suitable, and who is prepared to be so appointed, to exercise the rights that the deceased would have had under the Act in relation to the claim in respect of which benefit was receivable by the deceased and may pay sums on account of benefit determined to be due under such claim to any person who has attained the age of eighteen and who satisfies the Department that he will apply them for the benefit of any surviving member of the family for which benefit was determined to be payable.

(3) Where the right to payment of any sum on account of benefit receivable by a deceased person was not extinguished at the date of his death, the period of twelve months referred to in regulation 5 shall be calculated from the date on which the right to payment of that sum is treated as having arisen in relation to any such person as is referred to in paragraph (2) of this regulation, so, however, that this paragraph shall not apply to any sum on account of benefit for the payment of which written application has not been made to the Department within twelve months after the date of death or within such longer period as the Department may allow in any particular case.

(4) The receipt of any person to whom benefit is paid under paragraph (2) shall be a good discharge to the Department.

Suspension of payment of benefit

8. Where it appears to the Department that a question has arisen whether a determination by a determining authority awarding benefit ought to be revised in accordance with regulation 12 of the Family Income Supplements (General) Regulations (Northern Ireland) 1980, or whilst an appeal is pending in respect of any question, it may direct that payment of the benefit shall be suspended in whole or in part until that question has been decided.

Revocations

9. The regulations specified in column (1) of the Schedule are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 24th October 1980.

(L.S.) *T. S. Martin*
Assistant Secretary

SCHEDULE Regulation 9

Revocations

(1) *Regulations revoked*	(2) *References*
The Family Income Supplements (Claims and Payments) Regulations (Northern Ireland) 1971	S.R. & O. (N.I.) 1971 No. 123 (p. 610)
The Family Income Supplements (Miscellaneous Amendments) Regulations (Northern Ireland) 1972	S.R. & O. (N.I.) 1972 No. 223 (p. 1211)
The Family Income Supplements (Claims and Payments) (Amendment) Regulations (Northern Ireland) 1979	S.R. 1979 No. 415 (II, p. 1779)

EXPLANATORY NOTE

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

These regulations provide for the manner in which claims for, and payments of, family income supplements under the Family Income Supplements Act (Northern Ireland) 1971 are to be made. They consolidate, with amendments, the regulations revoked by these regulations and set out in the Schedule.

The amendment of the definition of "determining authority" in regulation 1(2) together with regulation 5 enables supplement officers to perform certain functions in relation to the extinguishment of the right to payment of benefit. This definition in its amended form also applies to regulation 8 (suspension of payment of benefit).

The other amendments are of a minor or technical nature.