1980 No. 424

SUPPLEMENTARY BENEFITS

The Supplementary Benefit (Urgent Cases) Regulations (Northern Ireland) 1980

Made . . . . . *20th November 1980*

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

ARRANGEMENT OF REGULATIONS

PART I

GENERAL

1. Citation and commencement
2. Interpretation
3. Urgent cases
4. Single payments
5. Pensions and allowances
6. Circumstances in which and items for which sums shall not be paid
7. Recovery of sums paid

PART II

EMERGENCY RELIEF

8. Emergency relief cases

PART III

OTHER URGENT CASES

9. Other urgent cases
10. Loss of money
11. Income resource taken into account but not paid
12. Period between day of claim and day of entitlement
13. Income resources spent on essential items
14. Starting or resuming work
15. Unpaid or part-paid absences from work
16. Claimants who fail to comply with conditions of Article 7 or 14
17. Entitlement to pension or allowance not established
18. No, or reduced, entitlement to pension or allowance because resources exceed requirements
19. Requirements or resources not immediately ascertainable
20. Suspension of payment
21. Persons from abroad
22. Failure to maintain
23. Unmarried couples

PART IV

DISCRETIONARY AMOUNTS

24. Discretionary amounts

PART V

RECOVERY

25. Sums not to be recovered
26. Prescribed benefits

SCHEDULES

Schedule 1 — Single payments for emergency relief
Schedule 2 — Single payments in other urgent cases

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 6 and 19(1) and (2)(*c*) of the Supplementary Benefits (Northern Ireland) Order 1977(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Supplementary Benefit (Urgent Cases) Regulations (Northern Ireland) 1980 and shall come into operation on 24th November 1980.

Interpretation

2.—(1) In these regulations—

"the Order" means the Supplementary Benefits (Northern Ireland) Order 1977;

"allowance" means a supplementary allowance under Article 3(1)(*b*) of the Order;

"assessment unit" means the claimant and any partner and dependant of the claimant;

"available capital" in relation to a claimant means any capital which falls, or would fall, to be disregarded under regulation 6(1)(*b*) and (2) of the Resources Regulations which can readily be converted into a liquid asset;

"available income" in relation to a claimant means income which falls or would fall to be disregarded by virtue of any provision of Part III of the Resources Regulations;

"benefit week" has the meaning assigned to it in regulations made pursuant to Article 19(2)(*f*) of the Order (days on which entitlement to pension or allowance is to begin or end or the amount thereof is to change);

"claimant" means a claimant for supplementary benefit;

(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

"close relative" means a parent, child, step-parent, step-child, brother or sister;

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

"dependant" means a person whose requirements and resources, by virtue of paragraph 3(2) of Schedule 1 to the Order, are or would be aggregated with and treated as those of the claimant;

"disaster" means the disaster in respect of which a claim is made for emergency relief;

"employment" means remunerative full-time work, other than self-employment, within the meaning of Article 9(1) of the Order;

"Health and Social Services Board" means a Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(**b**);

"home" means the accommodation, with any garage, garden and out-buildings, normally occupied by the assessment unit and any other members of the same household as their home, and it includes also any premises and land not so occupied which it would be impracticable or unreasonable to expect to be sold separately;

"partner" means one of a married or unmarried couple;

"pension" means a supplementary pension under Article 3(1)(*a*) of the Order;

"Requirements Regulations" means the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980(**c**);

"resident" means a person who is resident in the place in which or, as the case may be, the area in which the disaster occurred;

"Resources Regulations" means the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1980(**d**);

"Single Payments Regulations" means the Supplementary Benefit (Single Payments) Regulations (Northern Ireland) 1980(**e**);

"visitor" means a person who is a visitor to the place in which or, as the case may be, the area in which the disaster occurred.

(2) Except in so far as the context otherwise requires any reference in these regulations to a numbered Article is to the Article of the Order bearing that number.

Urgent cases

3.—(1) For the purposes of Article 6 (provision for cases of urgent need) urgent cases shall be, except in so far as Part II of the Supplementary Benefit (Trade Disputes and Recovery from Earnings) Regulations (Northern Ireland) 1980(**f**) provides otherwise, only those cases to which Parts II, III and IV of these regulations apply, where the item in question, or funds for that item, or funds to meet the expenses in question are not readily available to the assessment unit from any other source (for example, friends, relatives, credit facilities, a voluntary organisation) and in particular from any available income and available capital, and in any case to which Part II applies, from a Health and Social Services Board, under an approved scheme or from a relief fund.

(2) In an urgent case there shall be payable in accordance with these regulations supplementary benefit by way of a single payment or pension or allowance, and accordingly—

(*a*) Article 5 (supplementary benefit to meet exceptional need) shall be modified in accordance with regulation 4(1);

(**b**) S.I. 1972/1265 (N.I. 14)
(**c**) S.R. 1980 No. 347
(**d**) S.R. 1980 No. 348
(**e**) S.R. 1980 No. 363
(**f**) S.R. 1980 No. 417

(*b*) Article 7 (entitlement to allowance subject to registration and availability for employment) shall not apply;

(*c*) Article 8 (exclusion from supplementary benefit of persons not resident in the United Kingdom for a qualifying period) shall not apply;

(*d*) Article 9(1) (exclusion from supplementary benefit of persons in employment) shall not apply;

(*e*) Article 14(4) (exclusion from allowance of persons who fail to comply with directions to attend courses) shall not apply;

(*f*) Schedule 1 to the Order (provisions for determining right to and amount of benefit) shall be modified in accordance with regulation 5.

(3) In this regulation "an approved scheme" means a scheme approved by the Department of the Environment.

Single payments

4.—(1) In a case to which regulation 8(1) (items needed in emergency relief cases), 9(*a*) (items needed in other urgent cases) or 24 (discretionary amounts) applies by virtue of which an amount of supplementary benefit is payable in accordance with this regulation—

(*a*) Article 5(1) shall be modified so that there shall be payable in such a case supplementary benefit by way of a single payment;

(*b*) except in so far as sub-paragraph (*c*) provides that no amount or a reduced amount shall be payable, the amount of that single payment shall be—

(i) the amount specified for that item in column 2 of Schedule 1 (emergency relief) or of Schedule 2 (other urgent cases),

(ii) where the payment is in respect of the purchase of an item, it shall be such amount as is necessary to purchase an item of reasonable quality,

(iii) where the payment is in respect of costs of services provided, it shall be the amount of such costs to the extent that they are reasonable;

(*c*) Article 5(2) shall be modified so that where a claimant has any available capital, or any available income, any single payment which would, but for this sub-paragraph, be payable under these regulations shall be payable only to the extent that its amount, or where more than one payment falls to be made on one day their aggregate amount, exceeds the amount of that available capital or income.

(2) Nothing in these regulations shall be construed as precluding the payment of two or more single payments payable by virtue of one or more regulations by means of a single instrument of payment.

Pensions and allowances

5.—(1) The amount of any pension or allowance to which a claimant is entitled under these regulations shall be the amount by which his resources fall short of his requirements.

(2) For the purposes of ascertaining that amount—

(*a*) the claimant's requirements shall be determined in accordance with paragraph 2 of Schedule 1 to the Order except in so far as it is modified by paragraph (3) of this regulation;

(*b*) the claimant's resources shall be calculated pursuant to paragraph 1(2) and (3) of Schedule 1 to the Order except in so far as it is modified by paragraph (4) of this regulation;

(*c*) paragraph 3 of Schedule 1 to the Order shall apply except in so far as regulation 22 or 23 provides otherwise.

(3) The modification mentioned in paragraph (2)(*a*) shall be as follows—

(*a*) for the first 14 days, and for any day thereafter falling before the first day of the benefit week beginning next after the 14th day, the weekly amount applicable for normal requirements shall be—

(i) in respect of any dependant, the rate applicable to a dependant to whom paragraph 3(*d*) of Schedule 1 to the Requirements Regulations (dependant less than 11) applies,

(ii) in respect of any person to whom any paragraph in the first column of the Table in paragraph 2(3) of Schedule 1 to the Order (relevant persons and householders) applies or to whom paragraph 1(*a*) of Schedule 1 to the Requirements Regulations (non-householders aged 18 or over) applies, the rate applicable to a person to whom paragraph 4 of that Table (ordinary rate for householders) applies less 25 per cent,

(iii) in respect of any person to whom regulation 9 of the Requirements Regulations (boarders) applies, the allowance for personal expenses applicable under paragraph (8) of that regulation less 25 per cent, and, if the charge for board and lodging falls due during the period to which this head applies and the accommodation would be lost if that charge were not met under this head, the amount applicable under that regulation,

(iv) in any other case, the rate applicable less 25 per cent,

any sum of 25 per cent which is not a multiple of 5 pence being rounded down to the nearest such multiple;

(*b*) for the period mentioned in sub-paragraph (*a*) no additional or housing requirements shall be applicable.

(4) The modifications mentioned in paragraph (2)(*b*) shall be—

(*a*) where the value of a claimant's capital resources (including those of a partner or dependant) as calculated in accordance with Part II of the Resources Regulations exceeds the amount mentioned in regulation 7 of those regulations (maximum capital resources for entitlement to supplementary benefit) and regulation 8 of those regulations (effect of capital resources of dependants) does not apply, he shall be entitled to a pension or allowance under these regulations only where he has no capital resource which is readily realisable and which is not disregarded under regulation 6(1)(*a*) or (*c*) to (*e*) of those regulations;

(*b*) in the calculation of income resources, available income shall be taken into account in full.

(5) If in the case of a claimant to whom regulation 8(1) of the Requirements Regulations (modification of normal requirements in certain cases of actual or notional unemployment benefit disqualification) would, but for paragraph (3) of this regulation, apply, the amount of allowance determined in accordance with this regulation exceeds the amount which would have been payable under that regulation 8, only the latter amount shall be payable.

(6) Where a claimant has any available capital, an amount of pension or allowance which would, but for this paragraph, be payable under these regulations shall be payable only to the extent that its amount exceeds the amount of that available capital.

(7) The period for which any amount of pension or allowance is payable by virtue of any regulation in these regulations shall be—

(*a*) the period during which the conditions of entitlement applicable continue to be satisfied; or

(*b*) the period, if any, specified in that regulation,

whichever is the shorter, but in any case not to begin before the day on which the claim is made.

Circumstances in which and items for which sums shall not be paid

6.—(1) Notwithstanding any provision in these regulations, in particular regulation 24, no sum shall be paid under these regulations—

(*a*) if a sum under these regulations has already been paid in respect of the circumstances in question and those circumstances have not changed;

(*b*) where any member of the assessment unit is a person to whom Article 12 (persons affected by trade disputes) applies;

(*c*) in respect of a person in accommodation specified in sub-paragraph (*a*) or (*b*) of paragraph (4) of regulation 10 of the Requirements Regulations (''residential accommodation'') except where that person is visiting another person in circumstances to which paragraph 1(*a*) of column 1 of Schedule 2 to these regulations applies;

(*d*) in respect of a person mentioned in paragraph 6 of Schedule 2 to the Requirements Regulations (prisoners);

(*e*) except in circumstances to which Part II applies, in respect of a person under pensionable age who has left school and is attending a course of full-time education, other than periods when he is not attending his course and is not engaged on a programme of studies;

(*f*) in respect of any need which occurs outside Northern Ireland;

(*g*) except in circumstances to which regulation 8 or 21 of, or paragraph 1(*f*) in column 1 of Schedule 2 to, these regulations applies, in respect of a person to whom regulation 10(4A) of the Requirements Regulations (persons from abroad) applies for the purposes of paragraph 6A of Schedule 2 to those regulations.

(2) Notwithstanding any provision in these regulations, in particular regulation 24, no amount of supplementary benefit by way of a single payment shall be paid in respect of any item to which regulation 6(2) of the Single Payments Regulations (items for which payment is excluded) applies.

Recovery of sums paid

7. No sum paid by virtue of these regulations shall be recoverable by the Department in accordance with Article 6(2) and regulation 26 except where, and to the extent that, a benefit officer has determined in accordance with regulation 25 that it is so recoverable.

PART II
EMERGENCY RELIEF

Emergency relief cases

8.—(1) Where any member of the assessment unit is affected by a disaster (for example a fire or a flood), whether or not it affects other persons, and in the period mentioned in paragraph (3)—

(*a*) because of the disaster he is in need of any item to which column 1 of Schedule 1 applies; and

(*b*) the Single Payments Regulations do not apply to that item in those circumstances,

the claimant shall be entitled in respect of that item to an amount of supplementary benefit determined in accordance with regulation 4.

(2) Where any member of the assessment unit is affected by such a disaster and because of the disaster is in need of living expenses, there shall be payable for the period mentioned in paragraph (3) to the claimant an amount of pension or allowance determined in accordance with regulation 5.

(3) This regulation shall apply for a period of 14 days immediately following the disaster, except where it appears to the Department that there are, will be or are likely to be circumstances making impracticable or unduly difficult the normal operation of the provisions governing or the practice relating to the claiming, awarding or payment of supplementary benefit it may direct that that period may be extended; and a direction under this paragraph may be expressed—

(*a*) as having effect either generally or in relation to any case or class of case or to a specified area or specified areas; and

(*b*) either as having effect until a specified day or as continuing to have effect until revoked by the Department.

PART III

OTHER URGENT CASES

Other urgent cases

9. Where—

(*a*) any claimant is in need of any item to which and in circumstances to which Schedule 2 applies, and the Single Payments Regulations do not apply to that item in those circumstances, he shall be entitled in respect of that item to an amount of supplementary benefit determined in accordance with regulation 4;

(*b*) a claimant to whom any other regulation in this Part applies is in need of living expenses in circumstances to which that regulation applies, there shall be payable to him in respect of those living expenses an amount of pension or allowance as specified in that regulation:

provided that, if that claimant has had the same or a similar need in similar circumstances, it is reasonable for that need to be met.

Loss of money

10.—(1) Where a sum of money other than a sum to which paragraph (2) applies is lost, including any sum stolen or destroyed, but excluding any sum the loss of which is foreseeable, there shall be payable to the claimant an amount of pension or allowance determined in accordance with regulation 5, except that in aggregate the amount paid under this regulation shall not exceed the amount of that sum.

(2) This regulation shall not apply to any instrument of payment on account of benefit under the Order, the Social Security (Northern Ireland) Acts 1975(**g**), the Child Benefit (Northern Ireland) Order 1975(**h**), the Family Income Supplements Act (Northern Ireland) 1971(**i**), the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975 (**j**), or on account of any war disablement pension or war widow's pension as defined in the Supplementary Benefit (Duplication and Overpayment) Regulations (Northern Ireland) 1980(**k**).

(**g**) *See* Article 1(2) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15))
(**h**) S.I. 1975/1504 (N.I. 16)
(**i**) 1971 c. 8 (N.I.)
(**j**) 1975 c. 17
(**k**) S.R. 1980 No. 396

Income resource taken into account but not paid

11.—(1) Where in any week an income resource other than income to which paragraph (2) applies falls to be taken into account under regulation 4(2) of the Resources Regulations (available or due resource not yet paid), and is not paid before or in that week, there shall be payable to the claimant an amount of pension or allowance determined in accordance with regulation 5, except that in aggregate the amount paid under this regulation shall not exceed the amount of that income resource.

(2) This regulation shall not apply to—

(*a*) any earnings to which regulation 10 of the Resources Regulations (calculation of earnings for purposes of entitlement to supplementary benefit) applies, including any which fall or would fall not to be taken into account or fall or would fall to be disregarded;

(*b*) any income to which regulation 11(2)(*l*) of the Resources Regulations (grants or awards to students) applies, including any part of such income which falls or would fall to be disregarded.

Period between day of claim and day of entitlement

12. Where—

(*a*) a benefit officer has determined that the claimant is entitled to a pension or allowance pursuant to the Order or these regulations; but

(*b*) pursuant to regulations made under Article 19(2)(*f*) (day on which entitlement to pension or allowance is to begin) his entitlement to that pension or allowance is not to begin until a day later than that on which the claim for that pension or allowance was made,

there shall be payable to the claimant in respect of the day on which a determination was made under this regulation and any day falling before the day on which entitlement begins an amount of pension or allowance determined in accordance with regulation 5.

Income resources spent on essential items

13.—(1) This regulation shall apply to a claimant who would, if he made a claim and satisfied the conditions, be entitled to a pension or allowance if, but only if—

(*a*) any capital resources, as determined in accordance with Part II of the Resources Regulations, which are not readily realisable, were disregarded;

(*b*) any income resources, as determined in accordance with Part III of the Resources Regulations, were disregarded.

(2) Where in any week a claimant has spent his income for that week on any item for which, had he been entitled to claim it, a single payment would have been made under the Single Payments Regulations, there shall be payable to the claimant an amount of pension or allowance determined in accordance with regulation 5, except that in aggregate the amount paid under this regulation shall not exceed the amount which would have been payable in respect of that item under the Single Payments Regulations.

Starting or resuming work

14.—(1) This regulation shall apply to a claimant—

(*a*) who, if he made a claim and satisfied the conditions for claiming and payment of that pension or allowance prescribed pursuant to Article 19, would be entitled to a pension or allowance if he were not treated as being engaged in remunerative full-time work under Article 9(1), whether or not his weekly income resources were disregarded;

(*b*) who has recently started a new employment or resumed an employment after an absence;

(*c*) who has received from that employment either—

(i) no earnings, or

(ii) an amount of earnings which is less than the amount which would be payable under this regulation had head (i) applied; and

(*d*) whose employer in that employment will make either—

(i) no advance of earnings, or

(ii) an advance of earnings which is less than the amount which would be payable under this regulation had head (i) applied.

(2) In a case to which this regulation applies there shall be payable to the claimant—

(*a*) where he was not, in the period immediately preceding the day on which he started or resumed the employment mentioned in paragraph (1)(*b*), in employment, for the period of 16 days beginning on the 16th day after the day on which he started that employment;

(*b*) in any other case, for the period of one month from the day on which he started that employment,

an amount of pension or allowance determined in accordance with regulation 5.

Unpaid or part-paid absences from work

15.—(1) This regulation shall apply to a claimant—

(*a*) to whom regulation 14(1)(*a*) (not entitled to a pension or allowance because in full-time work) applies;

(*b*) who is unavoidably absent from his employment; and

(*c*) who either—

(i) is not paid any earnings, or

(ii) has been paid an amount of earnings which is less than the amount which he would have received if he had not been absent from his employment,

in respect of the whole or any part of the absence.

(2) In a case to which this regulation applies there shall be payable to the claimant for a period not exceeding one month beginning with the first day of his absence in respect of which he receives no earnings or insufficient earnings an amount of pension or allowance determined in accordance with regulation 5.

Claimants who fail to comply with conditions of Article 7 or 14

16.—(1) This regulation shall apply to a claimant who is not entitled to an allowance pursuant to the Order by virtue of either Article 7 (failure to comply with requirement to register and be available for work) or 14(4) (failure to comply with direction to attend course), but only if in the opinion of the benefit officer the award of an allowance under this regulation is the only means by which serious damage or serious risk to the health or safety of any member of the assessment unit may be prevented.

(2) In a case to which this regulation applies there shall be payable to the claimant an amount of allowance determined in accordance with regulation 5 as if regulation 8(1) of the Requirements Regulations applied to him (so that paragraph (5) of that regulation 5 shall apply).

Entitlement to pension or allowance not established

17.—(1) This regulation shall apply where—

(*a*) a claimant has claimed a pension or allowance pursuant to the Order; but

(*b*) his entitlement to that pension or allowance has not been established; and

(*c*) in the opinion of the benefit officer, it is appropriate and reasonable in the circumstances that an award under this regulation is made.

(2) In a case to which this regulation applies there shall be payable to the claimant an amount of pension or allowance determined in accordance with regulation 5, but not in respect of a period falling after the third working day after the first day in respect of which entitlement under this regulation begins.

(3) In this regulation "working day" means any day other than Saturday or Sunday or any other day on which the office of the Department at which a claim under this regulation is made is closed in connection with a public holiday (including, for the purpose of this paragraph, Christmas Day or a Bank Holiday under the Banking and Financial Dealings Act 1971(**l**)).

No, or reduced, entitlement to pension or allowance because resources exceed requirements

18.—(1) This regulation shall apply to a claimant—

(*a*) who has claimed a pension or allowance pursuant to the Order and a benefit officer has determined that he is not entitled to that pension or allowance because—

(i) his resources exceed his requirements by virtue of the application of paragraph (8), (9) or (10) of regulation 4 of the Resources Regulations (notional resources in respect of discretionary trusts or seasonal or high earners), or

(ii) the value of his capital resources exceeds the amount specified in regulation 7 of those regulations, and regulation 8 of those regulations does not apply to him;

(*b*) who is entitled to a pension or allowance pursuant to the Order but a benefit officer has determined in the calculation of his resources that one or more of the provisions mentioned in sub-paragraph (*a*)(i) applies to him and, but for the application of such provision, a higher amount of pension or allowance would be payable to him,

and the claimant has no resource which is readily realisable and which is not disregarded under regulation 6(1)(*a*) or (*c*) to (*e*) of the Resources Regulations.

(2) In a case to which this regulation applies there shall be payable to the claimant an amount of pension or allowance determined in accordance with regulation 5.

Requirements or resources not immediately ascertainable

19.—(1) This regulation shall apply where—

(*a*) a claimant has claimed a pension or allowance pursuant to the Order;

(*b*) in the determination of his entitlement to that pension or allowance his requirements or resources are not immediately ascertainable; and

(*c*) in the opinion of the benefit officer it is appropriate and reasonable in the circumstances that an award under this regulation is made.

(2) In a case to which this regulation applies there shall be payable to the claimant for a period beginning on the first day of the first benefit week falling after the date of

(**l**) 1971 c. 80

the claim an amount of pension or allowance determined in accordance with regulation 5 except that, where the amount of any requirement or resource is not immediately ascertainable, the benefit officer shall estimate the amount which it would in the circumstances be reasonable to take into account.

Suspension of payment

20.—(1) This regulation shall apply where—

(*a*) the claimant has been awarded a pension or allowance; but

(*b*) payment or part payment of that pension or allowance has been suspended by virtue of regulation 8 of the Supplementary Benefit (Determination of Questions) Regulations (Northern Ireland) 1980(**m**) (suspension of payment by the Department pending review or appeal);

(*c*) after that suspension the aggregate weekly amount of—

(i) any pension or allowance payable, and

(ii) his income resources as calculated under Part III of the Resources Regulations,

would be less than the amount of pension or allowance which would be payable if this regulation applied; and

(*d*) in the opinion of the benefit officer it is appropriate and reasonable that an award under this regulation is made.

(2) In a case to which this regulation applies there shall be payable to the claimant an amount of pension or allowance determined in accordance with regulation 5.

Persons from abroad

21.—(1) This regulation shall apply to a person to whom regulation 10(4A) of the Requirements Regulations (persons from abroad) applies for the purposes of paragraph 6A of Schedule 2 to those regulations and—

(*a*) he is a claimant to whom regulation 10(4A)(*a*) of those regulations (certain foreign nationals present with limited leave) applies and resources are available, but not readily available, to him; or

(*b*) he is awaiting the determination of an application made by virtue of section 3 of the Immigration Act 1971(**n**) (general provisions for regulation and control) for leave to remain in the United Kingdom to be varied; or

(*c*) he is awaiting the determination of an appeal made by virtue of Part II of that Act (appeals).

(2) In a case to which this regulation applies there shall be payable an amount of pension or allowance determined in accordance with regulation 5—

(*a*) in a case to which paragraph (1)(*a*) applies, for a period not exceeding 42 days;

(*b*) in a case to which paragraph (1)(*b*) applies—

(i) for a period ending not later than the date on which that determination is sent to the claimant, or

(ii) if the claimant has a right to appeal against that determination by virtue of Part II of the Immigration Act 1971, for a period ending not later than 28 days after the date on which that determination is sent to the claimant;

(*c*) in a case to which paragraph (1)(*c*) applies, for a period ending not later than the end of the period for which that appeal is treated as pending by virtue of section 33(4) of the Immigration Act 1971.

(**m**) S.R. 1980 No. 423 (**n**) 1971 c. 77

Failure to maintain

22.—(1) This regulation shall apply where—

(*a*) by virtue of paragraph 3(1) of Schedule 1 to the Order (aggregation of requirements and resources of couples) the requirements and resources of one person (in this regulation referred to as A) fall to be aggregated with and treated as those of another person (in this regulation referred to as B);

(*b*) whether by default or otherwise B is not maintaining A;

(*c*) if the requirements and resources of A and B did not fall to be aggregated, A would be a person to whom regulation 14(1)(*a*) (entitled to pension or allowance if conditions satisfied) applied.

(2) In a case to which this regulation applies—

(*a*) for the purposes only of these regulations, paragraph 3(1) of Schedule 1 to the Order shall not apply (and accordingly A shall be a claimant for the purposes of these regulations); and

(*b*) there shall be payable to A an amount of pension or allowance determined in accordance with regulation 5.

Unmarried couples

23.—(1) This regulation shall apply where a person (in this regulation referred to as A) has been in receipt of a pension or allowance pursuant to the Order determined by reference to requirements and resources which did not include those of another person (in this regulation referred to as B) but did by virtue of paragraph 3(2) of Schedule 1 to the Order (aggregation of requirements and resources of dependants) include those of another person or persons (in this regulation referred to as C) of whom B is not the parent and—

(*a*) a benefit officer has determined that A and B are living together as husband and wife so that the requirements and resources of A would, but for this regulation, by virtue of paragraph 3(1) of that Schedule (aggregation of requirements and resources of couples), be aggregated with those of B, and A would no longer be entitled to that pension or allowance;

(*b*) if B made a claim for a pension or allowance he would not be entitled to it in respect of himself and the persons (including A) whose requirements and resources would be aggregated with and treated as his by virtue of the said paragraph 3(1) and (2) (in this regulation those persons and B being referred to as "B's assessment unit"); and

(*c*) the immediate reduction in the income of B's assessment unit which would result from the loss of the pension or allowance payable to A would be so severe that its total weekly income would be less than the amount which would be applicable to the members of that unit under Parts II, III and IV of the Requirements Regulations (normal, additional and housing requirements).

(2) In a case to which this regulation applies Schedule 1 to the Order shall be modified so that there shall be payable to A whichever is the lesser amount of the following—

(*a*) an amount of pension or allowance equal to the difference between the total weekly income of B's assessment unit and the amount which would be applicable to it under Parts II, III and IV of the Requirements Regulations; or

(*b*) the amount of pension or allowance pursuant to the Order which would be payable to A if a benefit officer had not determined that A and B are living together as husband and wife.

(3) In this regulation "total weekly income" means B's resources as calculated in accordance with Part III of the Resources Regulations (earnings and other income) from which there shall be deducted—

(*a*) any payment which B makes to any spouse, former spouse or child of his who is not a member of the same household as B;

(*b*) any payment in respect of furniture or household goods on hire purchase to which regulation 11 of the Single Payments Regulations would apply if A or B were entitled to make a claim for it.

PART IV

DISCRETIONARY AMOUNTS

Discretionary amounts

24. Where a claimant to whom regulation 8(1) or 9 applies—

(*a*) claims an amount of supplementary benefit by way of a single payment or pension or allowance under any of the regulations in Part II or III of these regulations, but fails to satisfy the conditions for that amount; or

(*b*) claims to have an urgent need for which no provision is made in Part II or III of these regulations,

there shall be payable to the claimant to meet that urgent need an amount of supplementary benefit by way of a single payment determined in accordance with regulation 4 or, as the case may be, an amount of pension or allowance determined in accordance with regulation 5 if, in the opinion of a benefit officer, a payment of such an amount is the only means by which serious damage or serious risk to the health or safety of any member of the assessment unit may be prevented.

PART V

RECOVERY

Sums not to be recovered

25.—(1) This regulation is without prejudice to the provisions of Article 25 (recovery in cases of misrepresentation or non-disclosure).

(2) A sum paid by virtue of regulation 12 (period between day of claim and day of entitlement), regulation 16 (failure to comply with conditions of Article 7 or 14) or regulation 23 (unmarried couples) shall not be recovered.

(3) Where a sum is paid for an item by virtue of regulation 9(*a*) and paragraph 3 of Schedule 2 (deposits for accommodation), or for any period by virtue of regulation 17 (entitlement to pension or allowance not established), regulation 19 (amount of requirements or resources not immediately ascertainable) or regulation 20 (suspension of payment) and it is subsequently determined that the claimant was, pursuant to the Order, entitled to a pension or allowance in respect of the same item or the same period, in so far as that sum does not exceed the amount of pension or allowance which would, but for this paragraph, have been payable, that sum shall not be recovered but shall be treated as paid on account of the pension or allowance to which the claimant is entitled pursuant to the Order.

(4) Any sum of £10 or less, or a series of sums in respect of the same circumstances which are in aggregate £10 or less, shall not be recovered.

(5) Any other sum paid by virtue of these regulations shall not be recovered where—

(*a*) the claimant is entitled to a pension or allowance pursuant to the Order and—

(i) the amount of his income resources falling to be taken into account for the purpose of calculating his resources under the Resources Regulations is not reduced by regulation 10(5) or 11(5) of those regulations (partial disregard of earnings or other income respectively),

(ii) he has no capital resources which fall to be disregarded under regulation 6(2) of those regulations;

(*b*) the claimant is not entitled to a pension or allowance pursuant to the Order but—

(i) his requirements as determined pursuant to the Requirements Regulations exceed his resources as calculated under the Resources Regulations,

(ii) the amount of his income resources which would fall to be taken into account for that purpose would not be reduced by regulation 10(5) or 11(5) of those regulations,

(iii) he has no capital resources which fall to be disregarded under regulation 6(2) of those regulations,

and it is, in the opinion of the benefit officer, likely that sub-paragraph (*a*) or (*b*) would apply to him for a period in excess of 6 months from the date of the payment of the sum under these regulations.

Prescribed benefits

26.—(1) For the purpose of Article 6(2) the prescribed benefits shall be the benefits mentioned in regulation 6 of the Supplementary Benefit (Duplication and Overpayment) Regulations (Northern Ireland) 1980(**o**) (prescribed benefits for the purposes of recovery under Article 25 in cases of misrepresentation and non-disclosure), but as if for the reference in that regulation to regulation 7 of those regulations there were substituted a reference to paragraph (2) of this regulation.

(2) Recovery under Article 6(2) by deduction from pension or allowance payable pursuant to the Order shall be only to the extent set out in the following sub-paragraphs—

(*a*) where the claimant has any capital resources which fall to be disregarded under regulation 6(2) of the Resources Regulations, there may be recovered by way of deduction from the pension or allowance to which he is entitled in respect of any one benefit week an amount not exceeding £10;

(*b*) in any other case, there may be recovered by way of deduction from the pension or allowance to which he is entitled in respect of any one benefit week an amount not exceeding one half of the income falling to be disregarded by virtue of regulation 10(5) or 11(5) of the Resources Regulations, except that, if that amount does not exceed 50 pence, no sum shall be recovered by deduction from that pension or allowance; but any application of regulation 7(3) of the Supplementary Benefit (Duplication and Overpayment) Regulations (Northern Ireland) 1980 or regulation 3(4)(*b*) of the Supplementary Benefit (Deductions and Payments to Third Parties) Regulations (Northern Ireland) 1980(**p**) shall have priority over the application of this sub-paragraph;

(**o**) S.R. 1980 No. 396
(**p**) S.R. 1980 No. 356

(*c*) in any case, the amount deducted by way of recovery shall not be such as would reduce the amount of pension or allowance paid in respect of a benefit week to the claimant—

(i) where he is also entitled to payment of any benefit under the Social Security (Northern Ireland) Act 1975 together with which, under arrangements made by the Department, supplementary pension or allowance is paid, to less than 5 pence,

(ii) in any other case, to less than 10 pence.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 20th November 1980.

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

Assistant Secretary

SCHEDULE 1 Regulation 8(1)

Single Payments for Emergency Relief

Items and cases applicable 1	*Amount payable* 2
Clothing and footwear 1. Any item of clothing or footwear specified in column 1 of Schedule 2 to the Single Payments Regulations; and in the case of— (*a*) a child aged 14 or over; and (*b*) a child aged less than 14 who is large for his age, Part I or III of that Schedule (men's or women's clothing) shall apply, and in the case of any other child Part IV, V or VI of that Schedule (boys', girls' or baby clothing) shall apply.	1. The cost of purchase not exceeding the amount specified for that item in regulation 27(2) of, and column 2 of Schedule 2 to, the Single Payments Regulations unless the person concerned is outsize or disabled so that the amount specified is not appropriate in his case.
Emergency travelling expenses 2. Travelling expenses in Northern Ireland so as to enable any member of the assessment unit affected by the disaster— (*a*) who is a resident, to leave the place in which the disaster occurred and to stay with a relative or friend until the home is habitable; (*b*) who is a visitor, either— (i) to return home, or (ii) where that home is outside Northern Ireland, to travel to his point of departure from Northern Ireland or, if he has no means of travel from that point, to travel to the nearest representative in Northern Ireland of his country of residence; (*c*) who is a resident or a visitor, to travel to his place of employment.	2. In any case either— (*a*) the cost of second-class public transport by whichever method, excluding air travel, is used; or (*b*) where private transport is used— (i) where public transport is available, the cost of the petrol not exceeding the public transport cost, (ii) in any other case, the cost of the petrol, except that no amount shall be allowed under this sub-paragraph in respect of journeys undertaken by taxi unless the person concerned is unable to use other transport by reason of physical disability.
Emergency help for purchasing essential furniture and household equipment 3. Any of the following items which any member of the assessment unit who is a resident does not possess or does possess, but which is defective or unsafe and the cost of repair to which paragraph 4 would otherwise apply would exceed the cost of replacement— (*a*) any item of bedclothes specified in column 1 of Schedule 1 to the Single Payments Regulations where, in the opinion of a benefit officer, the	3. (*a*) The amount specified for that item in column 2 of Schedule 1 to the Single Payments Regulations;

Items and cases applicable 1	*Amount payable* 2
assessment unit's stock of that item is inadequate for its needs, having regard in particular to whether the state of health or any physical disability of any member of the assessment unit creates additional need for that item (for example, extra blankets for warmth, or extra sheets because of necessary frequent washing) and to the circumstances of the disaster (for example, extra blankets where electricity supply is disrupted);	
(*b*) sufficient beds and mattresses for all the members of the assessment unit;	(*b*) the cost of a new item;
(*c*) a cooker;	(*c*) & (*d*) the cost of a reconditioned item if such item is available, and in any other case the cost of a new item;
(*d*) a space heating appliance;	
(*e*) a table and sufficient chairs for all members of the assessment unit;	(*e*) the cost of a second-hand item, if available, and in any other case, the cost of a new item;
(*f*) essential cleaning materials.	(*f*) the cost of purchase; and in respect of an item to which sub-paragraph (*b*), (*c*), (*d*) or (*e*) applies shall include the cost of delivery and, where appropriate, installation.
Emergency help for repairs of essential furniture and household equipment 4. Any item to which paragraph 3 applies which because of the disaster is in need of essential repair, unless the cost of repair would be more than the cost of replacing the item under that paragraph or the repair would be uneconomic having regard to the future viability of the item.	4. The reasonable costs of repair, and where appropriate, installation, re-installing or removal.
Emergency minor repairs to property 5. Emergency minor repairs to the home of a claimant who is a resident in respect of damage caused by the disaster (for example, so as to secure the building temporarily such as by boarding up windows and patching the roof).	5. The reasonable costs of repair.
Emergency removal expenses 6. Removal within Northern Ireland of the assessment unit's household goods and personal effects.	6. The cheaper of two competitive estimates of the cost of the removal which the claimant shall furnish in pursuance of his claim, except that if in any case the Department directs that, having regard to urgency, it would not be reasonable for him to obtain more than one estimate the amount shall be the amount of that estimate.

Items and cases applicable 1	*Amount payable* 2
Emergency fuel	
7. Fuel essential for— (*a*) cooking; (*b*) space and water heating; (*c*) lighting; (*d*) where the disaster resulted in flooding, drying out the home and personal effects.	7. The cost of the fuel.

SCHEDULE 2 Regulation 9(*a*)

Single Payments in Other Urgent Cases

Items and cases applicable 1	*Amount payable* 2
Urgent travel 1. Travelling expenses within Northern Ireland in the following circumstances—	1. In any case the amount applicable under column 2 of paragraph 2 of Schedule 1 and—
(*a*) a member of the assessment unit is visiting a person who is critically ill and who is a close relative of or was prior to his illness a member of the same household as the member visiting;	(*a*) where— (i) in a case to which sub-paragraph (*a*) and, where applicable, (*b*) in column 1 of this paragraph applies a return journey in one day is impracticable (for example, on the grounds of distance) or return on a day later than the second day is reasonable (for example, so that a parent may visit a child in hospital for a longer period), (ii) in a case to which sub-paragraph (*c*) in column 1 of this paragraph applies the journey to the home or other destination in one day is impracticable, shall include the cost of one night's lodging or, in a case to which head (i) above applies, lodging for the number of days which is reasonable, in either case including any charge for breakfast only if that charge is inclusive and inseparable;
(*b*) in a case to which sub-paragraph (*a*) applies, the member travelling is incapable of doing so alone and needs to be accompanied;	(*b*) in a case to which sub-paragraph (*a*) (and where applicable, (*b*)), (*c*) or (*e*) of column 1 of this paragraph applies, shall include the cost of one main meal for each period of 24 hours absent from the home or other destination;
(*c*) a member of the assessment unit is stranded without the means to return home or to proceed to his final destination whichever is cheaper, except that this sub-paragraph shall not apply to a child who is stranded without a parent or guardian;	(*c*) in a case to which sub-paragraph (*d*) of column 1 of this paragraph applies— (i) where the claimant was not, in the period immediately preceding the day on which he commenced the job mentioned in that sub-paragraph, in full-time work, for the period beginning on the 16th day after the day on which he started that job and ending on the day before the day on which he receives any earnings or for one month beginning on the day on which

Items and cases applicable 1	*Amount payable* 2
	he started that job, whichever is the shorter period, (ii) in any other case, for the period of one month from the day on which he started that job, or until the day on which he receives any earnings, whichever is the shorter period.
(*d*) the claimant is a person to whom regulation 14 applies and— (i) is starting or resuming a job, and (ii) incurs travelling expenses in his journey between his accommodation and that employment; (*e*) the claimant is a person who— (i) either is not subject to control under the Immigration Act 1971 or has been accepted for settlement under that Act, and (ii) on his arrival in Northern Ireland has to travel to his final destination in Northern Ireland; (*f*) the claimant is a person to whom regulation 21 applies and he and other members of the assessment unit are travelling to his country of residence, except that this sub-paragraph shall only apply in respect of travel to the point of departure or, if he has no means of travel from that point, to travel to the nearest representative in Northern Ireland of his country of residence.	
Expenses on starting work 2. Items to which and circumstances in which regulation 23 of the Single Payments Regulations (single payment for expenses on starting work if job would otherwise be lost) would apply but for a payment made to the claimant under section 41 of the Prison Act (Northern Ireland) 1953(**q**) (payments for discharged prisoners).	2. The amount applicable under paragraph (3) of regulation 23 of the Single Payments Regulations.
Deposits for accommodation 3. Where a claimant has no fixed address and it is reasonable to make a single payment under this paragraph, a deposit to secure accommodation.	3. The amount of the deposit.

(**q**) 1953 c. 18 (N.I.); as amended by section 27 of the Treatment of Offenders Act (Northern Ireland) 1968 (1968 c. 29 (N.I.))

EXPLANATORY NOTE

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

These regulations provide for supplementary benefit by way of a single payment or a supplementary pension or allowance to be payable in urgent cases and modify the Supplementary Benefits (Northern Ireland) Order 1977 accordingly. They also set out the circumstances in which a sum paid in such a case is not to be recovered.

Part I contains provision for citation and commencement, and interpretation in particular of Parts II to IV. Urgent cases are identified in regulation 3 as those cases to which the regulations apply, but only where resources are not available from any other source. Provision is made as to the modification of the Order in such cases. Regulation 4 provides that, where a single payment by way of supplementary benefit is applicable under Parts II to IV and Schedules 1 and 2, the amount payable is to be the amount specified, except that it will be reduced or extinguished if the claimant has any resources which would otherwise be disregarded. Regulation 5 provides for the determination of requirements and calculation of resources where under Parts II to IV an amount of pension or allowance is payable. Regulation 6 prescribes the circumstances in which the sum will not be payable under these regulations, even under the provisions for discretionary amounts (regulation 24). Regulation 7 provides that sums paid under these regulations are only recoverable if the benefit officer (and consequently the other determining authorities under the Order) has so determined.

Parts II to IV set out the circumstances in which and items for which a single payment will be made and the circumstances in which an amount of pension or allowance to meet living expenses will be paid.

Part II (regulation 8 and Schedule 1) provides that where a claimant, his partner or dependant is affected by a disaster, the claimant is eligible for a single payment for items set out in Schedule 1 (for example, furniture and repairs needed because of the disaster) and for an amount of pension or allowance for living expenses. The regulation applies for a period of 14 days following the disaster unless the period is extended in any case by the Department. Subject to regulations 3 to 6, it applies to anyone whether or not he would in usual circumstances be entitled to supplementary benefit.

Part III (regulations 9-23 and Schedule 2) applies to other urgent cases identified in those regulations. Regulation 9 provides for single payments to be made for items to which and in circumstances to which Schedule 2 applies and for amounts of pension or allowance to be paid in circumstances and for periods to which regulations 10-23 apply. Subject to regulations 3 to 6, the regulations apply either to any claimant or to specified claimants. Urgent cases in which pension or allowance is payable relate to where money is lost (regulation 10) or not paid (regulation 11), the period between the day of claim for pension or allowance and the day on which payment begins (regulation 12), money spent on essentials (regulation 13), earnings not received in advance on starting work (regulation 14) or because of absences from work (regulation 15), claimants not entitled to benefit because of provisions of the Order or failure to comply with them (regulations 16-20), persons from abroad in certain circumstances (regulation 21), cases where a person fails to maintain his partner but the partner is unable to claim benefit under the Order (regulation 22) and where 2 persons are to be treated as an unmarried couple and not entitled to pension or allowance but the reduction in their income in consequence is severe (regulation 23).

Part IV (regulation 24) confers a discretion on the benefit officer (and consequently on other determining authorities) to make a single payment or award

pension or allowance where none of the preceding provisions applies but where payment or award is necessary to prevent serious damage or serious risk to the health or safety of the claimant or any partner or dependant of his.

Part V (regulations 25 and 26) relates to recovery. Regulation 25 specifies that sums paid under regulation 12, 16 or 23 are not to be recovered, nor is any sum less than £10. No sum is to be recovered from a claimant who has a low income. Regulation 26 prescribes the benefits from which recovery may be made by way of deduction including the extent to which deduction may be made from subsequently paid pension or allowance; provision is made for the maximum amount to be deducted from pension or allowance and the minimum amount to be left in payment.