1982 No. 343

SOCIAL SECURITY

The Social Security Benefits Up-rating Regulations (Northern Ireland) 1982

Made . . . . . *22nd October 1982*

Coming into operation . . . *22nd November 1982*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 126 of, and paragraph 2(1) of Schedule 14 to, the Social Security (Northern Ireland) Act 1975(a) and of all other powers enabling it in that behalf, hereby makes the following regulations which contain only provisions in consequence of the Social Security Benefits Up-rating Order (Northern Ireland) 1982(b) and which accordingly, by virtue of section 10(2) of, and paragraph 12(2) of Schedule 3 to, the Social Security Act 1980(c) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security Benefits Up-rating Regulations (Northern Ireland) 1982 and shall come into operation on 22nd November 1982.

(2) In these regulations, unless the context otherwise requires—

"the Act" means the Social Security (Northern Ireland) Act 1975;

"the up-rating order" means the Social Security Benefits Up-rating Order (Northern Ireland) 1982.

Conditions relating to payment of additional benefit under awards made before the appointed or prescribed day

2.—(1) This regulation applies to a case where—

(*a*) either—

(i) an award of any benefit under Chapters I to III of Part II of the Act has been made before the day appointed or prescribed for the payment of the benefit in question at a higher rate provided in or by virtue of the up-rating order, or

(ii) an award of any benefit under Part II of the Act has been made before the day appointed or prescribed for the payment of the benefit in question at a lower rate provided in or by virtue of the up-rating order;

(*b*) the period to which the award relates has not ended before that day; and

(*c*) the award does not, in accordance with the provisions of paragraph 2(2) of Schedule 14 to the Act, provide for the payment of the benefit at the higher or lower rate (as the case may be) as from that day.

(2) In a case to which this regulation applies, paragraphs 1 and 2 of Schedule 14 to the Act shall have effect subject to the condition that if a question arises as to either—

(a) 1975 c. 15
(b) S.R. 1982 No. 241
(c) 1980 c. 30

(*a*) the weekly rate at which the benefit is payable by virtue of the up-rating order; or

(*b*) whether the conditions for the receipt of the benefit at the altered rate are satisfied,

the benefit shall, until the question has been determined in accordance with the provisions of the Act, be or continue to be payable at the weekly rate specified in paragraph (3).

(3) The weekly rate referred to in paragraph (2) is the weekly rate specified in the award or the weekly rate at which the benefit would have been paid if the question had not arisen, whichever is the lower.

Persons not ordinarily resident in Northern Ireland

3. Regulation 5 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(**a**) (application of disqualification in respect of up-rating of benefit) shall apply to any additional benefit payable by virtue of the up-rating order.

Transitory provision

4.—(1) This regulation applies in the case where a person is entitled to receive unemployment benefit or sickness benefit, with increases for child dependants and with or without an increase for an adult dependant, for 24th and 25th November 1982, and the aggregate of—

(*a*) the weekly rate specified in paragraph 1 of Part I of Schedule 4 to the Act,

(*b*) (if he is entitled to receive an increase for an adult dependant) the weekly rate specified in column (3) of paragraph 1(*a*) of Part IV of that Schedule, and

(*c*) the weekly rate specified in column (2) of paragraph 1(*a*) of Part IV of that Schedule, multiplied by the number of child dependants in respect of whom he is entitled to receive increases

(reduced or adjusted as appropriate under any provision of the Act or regulations made thereunder), would, apart from this regulation but because of the up-rating order, be less for 25th than for 24th November.

(2) In a case to which this regulation applies, the person in question shall continue to be entitled to receive the benefit and the increases in question at the same aggregate rate as for 24th November for so long as he is entitled to receive the same benefit for a continuous period without any change in the number of adult and child dependants for whom he is entitled to receive increases and without any further adjustment falling to be made to that aggregate rate as a result of the operation of any provision of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(**b**) or of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(**c**).

(3) Paragraphs (1) and (2) shall apply to injury benefit as they do to unemployment benefit or sickness benefit, but as if—

(*a*) for "paragraph 1 of Part I" there were substituted "paragraph 1(*a*) of Part V",

(*b*) for "column (3) of paragraph 1(*a*) of Part IV" there were substituted "paragraph 11 of Part V", and

(*c*) for "column (2) of paragraph 1(*a*) of Part IV" there were substituted "paragraph 9 of Part V".

(**a**) S.R. 1978 No. 114; the relevant amending regulations are S.R. 1979 No. 392

(**b**) S.R. 1975 No. 109, amended by S.R. 1975 No. 202, S.R. 1977 No. 73, S.R. 1977 No. 166, S.R. 1977 No. 316 and S.R. 1979 No. 68

(**c**) S.R. 1979 No. 242, amended by S.R. 1980 No. 451 and S.R. 1982 No. 272

(4) In the case of a person who is entitled to receive injury benefit for 24th November 1982 at a reduced weekly rate by virtue of the provisions of section 91(1) of the Act (maximum aggregate of weekly benefit payable for successive accidents), paragraphs (1) and (2) shall apply as if for "24th" and "25th" there were substituted respectively "23rd" and "24th".

(5) Paragraphs (1) and (2) shall apply to maternity allowance as they do to unemployment benefit or sickness benefit, but as if—

(*a*) for "paragraph 1" and "paragraph 1(*a*)" there were substituted respectively "paragraph 4" and "paragraph 3", and

(*b*) for "24th" and "25th" there were substituted respectively "20th" and "22nd".

(6) Where the person first referred to in paragraph (1), or his spouse if they are residing together, is entitled to receive an allowance under section 70 of the Act (industrial death benefit) at the lower rate specified in paragraph 15(*b*) of Part V of Schedule 4 to the Act, that person shall be treated for the purposes of paragraphs (1) and (2) as if the child in respect of whom he or his spouse is entitled to receive that allowance were a child dependant in respect of whom he is entitled to receive an increase of unemployment benefit, sickness benefit, injury benefit or maternity allowance (as the case may be).

Revocations

5. Regulations 1, 2, 6, 7 and 8 of the Social Security Benefits Up-rating Regulations (Northern Ireland) 1981(a) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 22nd October 1982.

(L.S.) *I. M. S. Jordan* (Miss)
Assistant Secretary

(a) S.R. 1981 No. 345

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations are made in consequence of the Social Security Benefits Up-rating Order (Northern Ireland) 1982 (the "up-rating order").

Regulation 2 provides that in certain cases where a question has arisen about the effect of the up-rating order on a benefit already in payment the altered rates will not apply until the question is determined by an adjudicating authority.

Regulation 3 applies the provisions of regulation 5 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978 so as to restrict the application of the increases specified in the up-rating order in cases where the beneficiary lives abroad.

Regulation 4 provides that where the effect of the up-rating order would otherwise be to reduce the total amount of unemployment or sickness benefit, injury benefit or maternity allowance (including increases for children or payments of industrial death benefit comparable to such increases) the higher rate will continue in payment transitionally until the beneficiary ceases to be entitled or there is another change affecting the rate payable.

Regulation 5 revokes regulations 1, 2, 6, 7 and 8 of the Social Security Benefits Up-rating Regulations (Northern Ireland) 1981.