1972. No. 105 **[C]**

SUPPLEMENTARY BENEFITS

Recovery by Deductions from Earnings

REGULATIONS, DATED 28TH MARCH 1972, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER THE SUPPLEMENTARY BENEFITS ACTS (NORTHERN IRELAND) 1966 TO 1971.

The Ministry of Health and Social Services, in exercise of powers conferred by section 18(1) of the Supplementary Benefits &c. Act (Northern Ireland) 1966(**a**) and by section 2 of the Social Security Act (Northern Ireland) 1971(**b**), and of all other powers enabling it in that behalf, hereby makes the following regulations being regulations subject to negative resolution in accordance with section 38(2) of the Supplementary Benefits &c. Act (Northern Ireland) 1966:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Supplementary Benefit (Recovery by Deductions from Earnings) Regulations (Northern Ireland) 1972 and shall come into operation on 3rd April 1972.

(2) In these regulations—

"the 1966 Act" means the Supplementary Benefits &c. Act (Northern Ireland) 1966;

"the 1971 Act" means the Social Security Act (Northern Ireland) 1971;

"benefit" means benefit under the 1966 Act and includes benefit recoverable under section 2 (2) of the 1971 Act;

"employee" means a person falling within section 2 (1) of the 1971 Act who has been without employment by reason of a stoppage of work due to a trade dispute at his place of employment;

"employer" means the employer of an employee;

"Part I" means Part I of Schedule 1 to the 1971 Act.

(3) Any notice or other document required or authorised to be given or sent to any person under the provisions of these regulations shall be deemed to have been given or sent if it was sent by post to that person at his ordinary or last known address or in the case of an employer at the place of business where the employee is ordinarily employed.

Resumption of work between payment days

2.—(1) This regulation applies where in relation to an employee claiming benefit the following conditions are satisfied—

(*a*) he was entitled to benefit during a stoppage of work due to a trade dispute; and

(*b*) he is a person to whom section 2(2) of the 1971 Act (benefit to be recoverable) would but for this regulation apply; and

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(**a**) 1966. c. 28 (N.I.).
(**b**) 1971. c. 28 (N.I.).

(*c*) the Ministry had arranged for more than one payment day in the terminal week; and

(*d*) the payment day applicable to that employee in the terminal week was a day other than the earlier or earliest of the several payment days in that week; and

(*e*) work was resumed by employees after the first payment day of the terminal week but, by reason only of the arrangements for payment days made by the Ministry, before benefit was paid, or an instrument of payment was issued, to that employee for that week.

(2) Where this regulation has effect the employee shall be entitled to benefit in respect of the terminal week on the same terms as if the payment day applicable to him had been the earlier or earliest of such days relating to that week.

(3) Benefit to which an employee is entitled by virtue of this regulation shall not be recoverable under section 2(2) of the 1971 Act.

(4) In this regulation—

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

"payment day" means the day of the terminal week on which benefit is paid, or an instrument of payment is issued, to an employee;

"the terminal week" means the period of seven days during which work was resumed by employees after a stoppage of work and ending with the last of the several payment days which by virtue of the arrangements for payment days made by the Ministry form a single group.

Earnings not paid weekly

3.—(1) Where a deduction notice is served on the employer of an employee whose earnings are payable otherwise than weekly, Part I shall have effect with the adaptations applicable under the following provisions of this regulation.

(2) Where the employee's earnings are payable at two-weekly intervals, or at periods of some other multiple of a week, for the purposes of paragraph 4 of Part I the amount of the protected earnings shall be twice, or the other appropriate multiple, as the case may be, of that specified in the deduction notice, and the references to one-tenth shall be treated as references to one-fifth or to the other appropriate multiple of one-tenth, as the case may be, of the notified amount; and in paragraph 6(3) of Part I references to protected earnings and to one-tenth shall be adapted in the same manner.

(3) Where the employee is paid monthly Part I shall be adapted in the same manner as under paragraph (2) but as if he were paid every five weeks.

(4) Where the employee's earnings are payable daily, for the purposes of paragraph 4 of Part I the amount of the protected earnings as specified in the deduction notice shall be divided by five and the references to one-tenth shall be treated as references to one-fiftieth; and in paragraph 6(3) of Part I references to protected earnings and to one-tenth shall be adapted in the same manner.

(5) Where the employee's earnings include any bonus, commission or other similar payment payable on a day or days other than the day (hereafter in this paragraph called "the normal pay-day") on which the remainder of his wages or salary is normally paid, then in order to calculate the employee's available earnings for the purposes of Part I, any such bonus, commission or other

similar payment shall be treated as being payable to him on the next following normal pay-day instead of on the day or days on which they are actually payable.

(6) If any doubt arises in any case to which this regulation applies but for which specific provision is not made, the Ministry, on the application of the employer or the employee, shall specify the adaptation of Part I to be made in that case.

Recording and payment of recovered amounts to Ministry

4.—(1) The employer shall keep a record on an approved form of the available earnings of each employee in respect of whom a deduction notice is in force and of payments under paragraph (2)(*a*).

(2)(*a*) Within seven working days of each pay-day of the employee the employer shall pay to the Ministry the amount which he was required to deduct from the employee's available earnings in accordance with paragraph 4 of Part I and also any additional amount which with the consent of the employee he deducted in accordance with paragraph 4 (3)(*b*) of Part I.

(*b*) All such payments shall be made to the Ministry at the appropriate office and shall be accompanied by a statement of deductions on an approved form.

(3) Where on any pay-day the employer, by reason only of the circumstances mentioned in paragraph 4(4)(*a*) of Part I, makes no deduction from the employee's available earnings he shall within seven working days give notice of that fact on an approved form to the Ministry at the appropriate office.

(4) Where a deduction notice is cancelled by virtue of paragraph 2(6) or 3(2) of Part I or ceases to have effect by virtue of paragraph 3(1) of Part I, the employer shall within seven working days return the deduction notice to the Ministry at the appropriate office and where paragraph 3(1) applies shall furnish with that notice a statement on an approved form of the reason for the return of the notice.

(5) In this regulation—

"appropriate office" means such office of the Ministry as the Ministry may direct;

"approved form" means either a form approved by the Ministry or such other statement in writing as the Ministry may accept as sufficient in the circumstances of any particular case.

Employees to give notice of cessation or resumption of employment

5.—(1) Where an employee ceases to be in the employment of a person on whom a deduction notice relating to him has been duly served knowing that there has not been deducted from his earnings or otherwise recovered by the Ministry the full amount specified in that deduction notice as the amount by reference to which deductions were to be made, he shall notify the Ministry of his address and of the date of such cessation of employment within one week.

(2) Where on or after such cessation the employee resumes full-time employment, whether with the same or some other employer, he shall within one week notify the Ministry of the name of the employer and of the address of his place of employment.

Review of determination of protected earnings

6.—(1) A determination of the employee's protected earnings whether made by the Commission in accordance with section 2(4) and (5) of the 1971 Act or on review under this regulation may be reviewed by the Commission—

(*a*) if the Ministry has been notified of any relevant change of circumstances since the determination was made in respect of which a determination on review would result in an increase of £2 or more in the amount of the employee's protected earnings; or

(*b*) if the Commission are satisfied that the determination was based on a mistake as to the law or was made in ignorance of, or was based on a mistake as to, some material fact; or

(*c*) where there are exceptional circumstances.

(2) Notice of any determination made by the Commission under paragraph (1) shall be given or sent to the employee in writing.

(3) Where the Commission review the employee's protected earnings under this regulation they shall thereupon give to the Ministry notice in writing specifying the amount of the employee's protected earnings as determined on review (hereafter in this regulation called "the revised protected earnings").

(4) Where the Ministry receives notice from the Commission under paragraph (3) it shall thereupon serve on the employer written notice varying the relevant deduction notice by substituting the amount of the revised protected earnings for the amount of the protected earnings as specified in the notice.

(5) Any variation of a deduction notice under paragraph (4) shall take effect either from the end of the period of seven days beginning with the day on which notice of the variation is served on the employer or, within the discretion of the employer, at any earlier time after service of the notice.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 28th day of March 1972.

(L.S.) *C. G. Oakes,*
Assistant Secretary.

EXPLANATORY NOTE

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

These regulations make provisions for the purposes of section 2 of the Social Security Act (Northern Ireland) 1971. That section, which comes into operation on 3rd April 1972, provides that supplementary benefit awarded to a person during the period of 15 days after his return to full-time employment following a trade dispute shall in certain circumstances be recoverable by deductions from his earnings.

1972. No. 106

As this Order has been classified as local, it is not printed at length in this volume. A summary is given in the List of Statutory Rules and Orders of a Local Character under the heading HARBOURS.