

## 1989 No. 125

## HOUSING; RATES

**The Housing Benefit (General) (Amendment) Regulations  
(Northern Ireland) 1989**

<i>Made</i>	<i>31st March 1989</i>
<i>Coming into operation—</i>	
<i>for the purposes of regulations 1, 3 and 4</i>	<i>1st April 1989</i>
<i>for the purposes of regulations 2, 5 to 8 and 11 to 13 to the extent that they relate to cases referred to in regulation 1(2)</i>	<i>1st April 1989</i>
<i>to the extent that they relate to any other case</i>	<i>3rd April 1989</i>
<i>for the purposes of regulations 9 and 10</i>	<i>9th October 1989</i>

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(1)(c), (8) and (12)(g), 22(6)(b), 23(1), (8) and (9) and 30 of the Social Security (Northern Ireland) Order 1986(a) and of all other powers enabling it in that behalf, and with the consent of the Department of the Environment(b), so far as relates to matters with regard to which such consent is required, hereby makes the following regulations:

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Housing Benefit (General) (Amendment) Regulations (Northern Ireland) 1989 and shall come into operation as follows—

- (a) regulations 1, 3 and 4, on 1st April 1989;
  - (b) regulations 2, 5 to 8 and 11 to 13 in any case to which paragraph (2)(a) or (b) applies, on 1st April 1989 and in any other case, on 3rd April 1989;
  - (c) regulations 9 and 10, on 9th October 1989.
- (2) This paragraph applies in any case where—
- (a) rent is payable at intervals of one month or any other interval which is not a week or a multiple thereof; or
  - (b) payments by way of rates are not made together with payments of rent at weekly intervals or multiples thereof.

(a) S.I. 1986/1888 (N.I. 18); Article 81(1) provides for section 155(1) to (3A) of the Social Security (Northern Ireland) Act 1975 (c. 15) (extent of powers) to apply to the enabling provisions under which these regulations are made; section 155(3A) was inserted by Article 63(1)

(b) See Article 81(5) of the Social Security (Northern Ireland) Order 1986

(3) In these regulations “the principal regulations” means the Housing Benefit (General) Regulations (Northern Ireland) 1987(a).

*Amendment of regulation 3 of the principal regulations*

2. In regulation 3 of the principal regulations (definition of non-dependant)—

- (a) in paragraph (2)(e) for the words from “liable to make payments” to the end there shall be substituted “liable to make payments on a commercial basis to the claimant or the claimant’s partner or to whom or to whose partner the claimant or the claimant’s partner is liable to make payments on a commercial basis, in respect of the occupation of the dwelling;”;
- (b) in paragraph (3) “a person who normally resides with a claimant and who is a boarder or” shall be omitted;
- (c) at the end of paragraph (4) there shall be added “but not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord”.

*Amendment of regulation 11 of the principal regulations*

3. In regulation 11 of the principal regulations (restrictions on unreasonable payments)—

- (a) in paragraph (2) for “(3) and (4)” there shall be substituted “(3) to (4)”;
- (b) after paragraph (3) there shall be inserted the following paragraphs—

“(3A) No reduction shall be made under paragraph (2) for a period of 12 months from the date of death of any person to whom paragraph (7) applied or, had a claim been made, would have applied, if the dwelling which the claimant occupies is the same as that occupied by him at that date except where the reduction began before the death occurred.

(3B) For the purposes of paragraph (3A), a claimant shall be treated as occupying the dwelling if paragraph (8) of regulation 5 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) is satisfied and for that purpose sub-paragraph (b) of that paragraph shall be treated as if it were omitted.”.

*Amendment of regulation 12 of the principal regulations*

4. In regulation 12 of the principal regulations (restrictions on rent increases)—

- (a) at the beginning there shall be inserted “(1) Subject to paragraph (2),”;
- (b) after paragraph (1) there shall be added the following paragraphs—

“(2) No reduction shall be made under this regulation for a period of 12 months from the date of death of any person to whom regulation

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(a) S.R. 1987 No. 461; the relevant amending regulations are S.R. 1988 Nos. 186, 314 and 424 and S.R. 1989 No. 18

11(7) (restrictions on unreasonable payments) applied or, had a claim been made, would have applied, if the dwelling which the claimant occupies is the same as that occupied by him at that date except where the reduction began before the death occurred.

(3) For the purposes of paragraph (2), a claimant shall be treated as occupying the dwelling if paragraph (8) of regulation 5 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) is satisfied and for that purpose sub-paragraph (b) of that paragraph shall be treated as if it were omitted.”.

*Amendment of regulation 24 of the principal regulations*

5. In regulation 24(1) of the principal regulations (average weekly income other than earnings) “or regulation 27(4) (weekly amount of charitable or voluntary payment)” shall be omitted.

*Amendment of regulation 61 of the principal regulations*

6. In regulation 61 of the principal regulations (maximum housing benefit) after “non-dependants” there shall be inserted “or boarders”.

*Amendment of regulation 63 of the principal regulations*

7. In regulation 63 of the principal regulations (non-dependant deductions)—

- (a) in paragraph (1)(a) for “who is in remunerative work or who is a boarder” there shall be substituted “in remunerative work or a boarder aged 18 or over”;
- (b) in paragraph (2) after “remunerative work” there shall be inserted “and of a boarder aged 18 or over in remunerative work”.

*Amendment of Schedule 1 to the principal regulations*

8. In Schedule 1 to the principal regulations (ineligible service charges) after paragraph 1A(4) there shall be added the following sub-paragraphs—

“(5) Where a charge for meals includes provision for meals for a person who is not a member of the claimant’s family sub-paragraphs (2) to (4) shall apply as if that person were a member of the claimant’s family.

(6) For the avoidance of doubt where the charge does not include provision for meals for a claimant or, as the case may be, a member of his family, sub-paragraphs (2) to (4) shall not apply in respect of that person.”.

*Amendment of Schedule 2 to the principal regulations*

9. In Schedule 2 to the principal regulations (applicable amounts)—

(a) for paragraph 9 there shall be substituted the following paragraphs—

“*Pensioner Premium for persons under 75*

9. The condition is that the claimant—

- (a) is a single claimant or lone parent aged not less than 60 but less than 75; or
- (b) has a partner and is, or his partner is, aged not less than 60 but less than 75.

*Pensioner Premium for persons 75 and over*

- 9A. The condition is that the claimant—
- (a) is a single claimant or lone parent aged not less than 75 but less than 80; or
  - (b) has a partner and is, or his partner is, aged not less than 75 but less than 80.”;
- (b) in paragraph 12(1)(a)(ii) for “solely on account of the maximum age for its payment being reached” there shall be substituted “either on account of the maximum age for this payment being reached or the payment of a retirement pension under the principal Act”;
- (c) in paragraph 15(a)—
- (i) for sub-paragraph (2) there shall be substituted the following sub-paragraphs—
 

“(2) Pensioner Premium for persons aged under 75—	
(a) where the claimant satisfies the condition in paragraph 9(a);	(2) (a) £11·20;
(b) where the claimant satisfies the condition in paragraph 9(b).	(b) £17·05.
(2A) Pensioner Premium for persons aged 75 and over—	
(a) where the claimant satisfies the condition in paragraph 9A(a);	(2A) (a) £13·70;
(b) where the claimant satisfies the condition in paragraph 9A(b).	(b) £20·55.”,
  - (ii) in sub-paragraph (3) for “£13·70” and “£19·50” there shall be substituted “£16·20” and “£23·00” respectively.

*Amendment of Schedule 3 to the principal regulations*

10. In Schedule 3 to the principal regulations (sums to be disregarded in the calculation of earnings) for paragraph 3 there shall be substituted the following paragraph—

“3.—(1) In a case to which this paragraph applies, £15; but notwithstanding regulation 19 (calculation of income and capital of members of claimant’s family and of a polygamous marriage) if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £15.

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(a) See S.R. 1989 No. 18: paragraph 15(2) and (3) was amended by Article 18(9) and Schedule 10

(2) This paragraph applies where the claimant's applicable amount includes an amount by way of the disability premium or the severe disability premium under Schedule 2 (applicable amounts).

(3) This paragraph applies where—

- (a) the claimant is a member of a couple and his applicable amount would, but for the higher pensioner premium under Schedule 2 being applicable, include an amount by way of the disability premium under that Schedule; and
- (b) he or his partner is under the age of 60 and at least one is engaged in employment.

(4) This paragraph applies where—

- (a) the claimant's applicable amount includes an amount by way of the higher pensioner premium under Schedule 2;
- (b) the claimant or, if he is a member of a couple, either he or his partner has attained the age of 60;
- (c) immediately before attaining that age he or, as the case may be, he or his partner was engaged in employment and the claimant was entitled by virtue of sub-paragraph (2) to a disregard of £15; and
- (d) he or, if he is a member of a couple, he or his partner has continued in employment.

(5) This paragraph applies where—

- (a) the claimant is a member of a couple and his applicable amount would include an amount by way of the disability premium under that Schedule, but for—
  - (i) the pensioner premium for persons aged 75 and over under Schedule 2 being applicable, or
  - (ii) the higher pensioner premium under that Schedule being applicable; and
- (b) he or his partner has attained the age of 75 but is under the age of 80 and the other is under the age of 60 and at least one member of the couple is engaged in employment.

(6) This paragraph applies where—

- (a) the claimant is a member of a couple and he or his partner has attained the age of 75 but is under the age of 80 and the other has attained the age of 60;
- (b) immediately before the younger member attained that age either member was engaged in employment and the claimant was entitled by virtue of sub-paragraph (5) to a disregard of £15; and
- (c) either he or his partner has continued in employment.

(7) For the purposes of this paragraph, no account shall be taken of any period not exceeding 8 consecutive weeks occurring on or after the date on which the claimant or, if he is a member of a couple, he or his partner attained the age of 60 during which either or both ceased to be engaged in employment or the claimant ceased to be entitled to income support."

*Amendment of Schedule 4 to the principal regulations*

**11.** In Schedule 4 to the principal regulations (sums to be disregarded in the calculation of income other than earnings) in paragraph 21 at the end there shall be added "or a boarder".

*Amendment of Schedule 5 to the principal regulations*

**12.** In Schedule 5 to the principal regulations (capital to be disregarded) in paragraph 24(1) for "he left that dwelling" there shall be substituted "he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied".

*Amendment of Schedule 6 to the principal regulations*

**13.** In Schedule 6 to the principal regulations (matters to be included in the notice of determination) in paragraph 9(c) after "paragraph 5(2)" there shall be inserted "or (2A)".

Sealed with the Official Seal of the Department of Health and Social Services on 31st March 1989.

(L.S.)

*C. Davie*

Assistant Secretary

The Department of the Environment hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of the Environment on 31st March 1989.

(L.S.)

*W. N. Campbell*

Assistant Secretary

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations further amend the Housing Benefit (General) Regulations (Northern Ireland) 1987 in the following respects—

- (a) they introduce an increased pensioner premium for persons aged 75 and over and up-rate the amount of the higher pensioner premium with effect from 9th October 1989 (regulation 9); and provide for an earnings disregard of £15 where, but for these changes, a person would have been entitled to the disability premium (regulation 10);
- (b) they provide for boarders not to be treated as non-dependants if they live in the household of another claimant and for a deduction to be made from the maximum housing benefit in respect of boarders aged 18 or over (regulations 2, 6 and 7);
- (c) they make provision for the disregard of payments made to the claimant by a boarder and for property to be disregarded where it is occupied by a lone parent if he is the former partner of the claimant (regulations 11 and 12); and delete an obsolete reference (regulation 5);
- (d) they provide, in assessing ineligible service charges, for a deduction in respect of meals to be made in respect of a person who is a member of the claimant's household but not a member of his family and make clear that such deductions are only to be made in respect of persons for whom the charge makes provision (regulation 8); and for the notice of award to specify the details of any fuel deduction made (regulation 13);
- (e) they prohibit an authority from reducing eligible rent for a period of 12 months from the death of a member of the household (regulations 3 and 4).

These regulations are made before the expiry of 12 months from the commencement of the provisions under which they are made: they are accordingly exempt, by virtue of Article 62(5) of the Social Security (Northern Ireland) Order 1986, from reference to the Social Security Advisory Committee.