

1991 No. 47

HOUSING; RATES

**The Housing Benefit (General) (Amendment) Regulations
(Northern Ireland) 1991**

Made 14th February 1991

Coming into operation—
regulations 1, 4, 6 and 7 13th March 1991
regulations 2, 3, 5 and
8 to 12 1st April 1991

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(1)(c), (8) and (12)(h), 22(6)(b), 23(8) and (9), 30(5) and 52(1)(a) and (b) of the Social Security (Northern Ireland) Order 1986(a) and of all other powers enabling it in that behalf, with the consent of the Department of the Environment(b) so far as relates to matters with regard to which such consent is required, and after agreement by the Social Security Advisory Committee that proposals to make these regulations should not be referred to it(c), 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) 1991 and shall come into operation as follows—

- (a) regulations 1, 4, 6 and 7 on 13th March 1991;
- (b) regulations 2, 3, 5 and 8 to 12 on 1st April 1991.

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

Amendment of regulation 11 of the principal regulations

2. In regulation 11(2) of the principal regulations (restrictions on unreasonable payments)—

- (a) for “Subject to paragraphs (3) to (4), where the appropriate authority considers—” there shall be substituted “The appropriate authority shall consider—”;
- (b) in sub-paragraphs (a), (b) and (c) for “that” at the beginning of each of those sub-paragraphs there shall be substituted “whether”;

(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
 (c) See Article 62(1)(b) of the Social Security (Northern Ireland) Order 1986
 (d) S.R. 1987 No. 461; the relevant amending regulations are S.R. 1988 No. 314, S.R. 1989 No. 125 and S.R. 1990 Nos. 136, 137, 297, 305 and 345

- (c) after sub-paragraph (c) for “the authority may” there shall be substituted “and, where it appears to the authority that the dwelling is larger than is reasonably required or that the rates are, or as the case may be, the rent is unreasonably high, the authority shall, subject to paragraphs (3) to (4),”.

Amendment of regulation 29 of the principal regulations

3. In regulation 29(2) of the principal regulations (calculation of net earnings of employed earners) for “paragraphs 1 to 11” there shall be substituted “paragraphs 1 to 12”.

Amendment of regulation 33 of the principal regulations

4. In regulation 33(3A) of the principal regulations (calculation of income other than earnings) after “Education (Student Loans) (Northern Ireland) Order 1990” there shall be inserted “or section 1 of the Education (Student Loans) Act 1990(a).”.

Amendment of regulation 43A of the principal regulations

5. In regulation 43A of the principal regulations (diminishing notional capital rule)—

(a) in paragraph (3)—

- (i) for the words from “equal to” to the end there shall be substituted “equal to the aggregate of—

(a) the additional amount to which paragraph (2)(b) refers;”,

- (ii) after sub-paragraph (a) there shall be added the following sub-paragraphs—

“(b) where the claimant has also claimed family credit, the amount of family credit or any additional amount of that benefit to which he would have been entitled in respect of the benefit week to which paragraph (2) refers but for the application of regulation 34(1) of the Family Credit (General) Regulations (Northern Ireland) 1987 (notional capital)(b); and

(c) where the claimant has also claimed income support, the amount of income support to which he would have been entitled in respect of the benefit week to which paragraph (2) refers but for the application of regulation 51(1) of the Income Support (General) Regulations (Northern Ireland) 1987 (notional capital)(c).”.

(a) 1990 c. 6

(b) S.R. 1987 No. 463; the relevant amending regulations are S.R. 1990 No. 347

(c) S.R. 1987 No. 459; the relevant amending regulations are S.R. 1990 No. 346

- (b) in paragraph (4)—
- (i) for the words from “shall be” to the end there shall be substituted “shall be equal to the aggregate of—
 - (a) the amount of housing benefit to which the claimant would have been entitled in the relevant week but for regulation 43(1);”,
 - (ii) after sub-paragraph (a) there shall be added the following sub-paragraphs—
 - “(b) if the claimant would, but for regulation 34(1) of the Family Credit (General) Regulations (Northern Ireland) 1987 have been entitled to family credit or to an additional amount of that benefit in respect of the benefit week within the meaning of regulation 34A(8)(a) of those regulations (diminishing notional capital rule), which includes the last day of the relevant week, the amount which is equal to—
 - (i) in a case where no family credit is payable, the amount to which he would have been entitled, or
 - (ii) in any other case, the amount equal to the additional amount of family credit to which he would have been entitled; and
 - (c) if the claimant would, but for regulation 51(1) of the Income Support (General) Regulations (Northern Ireland) 1987, have been entitled to income support in respect of the benefit week, within the meaning of regulation 2(1) of those regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7.”
 - (c) in paragraph (8) before the definition of “relevant week” there shall be inserted the following definition—

“ “part-week” in paragraph (4)(c) means—

 - (i) a period of less than a week which is the whole period for which income support is payable, and
 - (ii) to any other period of less than a week for which it is payable;”.

Amendment of regulation 48A of the principal regulations

6. In regulation 48A of the principal regulations (full-time students to be treated as not liable to make payments of rent in respect of a dwelling)—

- (a) in paragraph (2)(g)—
 - (i) in head (i) for “or paragraph 12 of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1990, or” there shall be

substituted “, paragraph 12 of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1990(a) or paragraph 12 of Schedule 7 to the Students Awards (No. 2) Regulations (Northern Ireland) 1990(b), or”,

(ii) after head (ii) there shall be added the following—

“or

(iii) a supplementary requirement has been determined under paragraph 15 of Schedule 2 to the Education (Mandatory Awards) Regulations 1987(c) or the Education (Mandatory Awards) Regulations 1988(d), paragraph 12 of Schedule 2 to the Education (Mandatory Awards) Regulations 1989(e) or paragraph 12 of Schedule 2 to the Education (Mandatory Awards) Regulations 1990(f), an allowance or, as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 6 of the Students' Allowances (Scotland) Regulations 1987(g) or, as the case may be, the Education Authority Bursaries (Scotland) Regulations 1988(h) in respect of expenses incurred, or a payment has been made under section 2 of the Education Act 1962(i),”;

(b) in paragraph (4) for the words from “or any increase by” to “paid to him” there shall be substituted “, payment, allowance or bursary”.

Amendment of regulation 57A of the principal regulations

7. In regulation 57A(1) of the principal regulations (treatment of student loans) after “Education (Student Loans) (Northern Ireland) Order 1990” there shall be inserted “or section 1 of the Education (Student Loans) Act 1990”.

Amendment of regulation 63 of the principal regulations

8. In regulation 63(8) of the principal regulations (non-dependant deductions) “single” shall be omitted.

Amendment of regulation 72 of the principal regulations

9. In regulation 72 of the principal regulations (time and manner in which claims are to be made)—

(a) in paragraph (5) after sub-paragraph (b) there shall be inserted the following sub-paragraph—

(a) S.R. 1990 No. 23; revoked by S.R. 1990 No. 427

(b) S.R. 1990 No. 427

(c) S.I. 1987/1261; revoked by S.I. 1988/1360

(d) S.I. 1988/1360; revoked by S.I. 1989/1458

(e) S.I. 1989/1458; revoked by S.I. 1990/1628

(f) S.I. 1990/1628

(g) S.I. 1987/864

(h) S.I. 1988/1042

(i) 1962 c. 12

- “(bb) in a case where a claimant or his partner is a person on income support and he becomes liable for the first time to make payments in respect of the dwelling which he occupies as his home, where the claim is received at the designated office within 4 weeks of the claimant first becoming liable for such payments, the date he became liable for those payments;”;
- (b) in paragraph (13)(a) for “regulation 67(a)” there shall be substituted “regulation 67(a) and (b)”.

Amendment of regulation 99 of the principal regulations

10. In regulation 99(2) of the principal regulations (recoverable overpayments) after “receipt of the payment” there shall be inserted “or of any notice relating to that payment”.

Amendment of Schedule 1 to the principal regulations

11. In Schedule 1 to the principal regulations (ineligible service charges), in paragraph 2 after sub-paragraph (1) there shall be inserted the following sub-paragraph—

“(1A) Subject to paragraph 1A, where the Executive considers that the amount of any service charge to which regulation 10(1)(e) (rent) applies and which is separately identified within other payments made by the occupier in respect of the dwelling is unreasonably low having regard to the service provided, it shall substitute an amount for the charge in question which it considers represents the value of the services concerned and the amount so substituted shall be ineligible to be met by housing benefit.”.

Amendment of Schedule 5 to the principal regulations

12. In Schedule 5 to the principal regulations (capital to be disregarded), in paragraph 15 for “paragraph 9 of Schedule 3 or paragraph 22” there shall be substituted “paragraph 11 of Schedule 3 or paragraph 24”.

Sealed with the Official Seal of the Department of Health and Social Services on 14th February 1991.

(L.S.)

A. N. Burns

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 14th February 1991.

(L.S.)

W. N. Campbell

Assistant Secretary

(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 amend the provisions so as to require appropriate authorities to treat a claimant's rent or rates as reduced when calculating his maximum housing benefit where it is considered that his dwelling is larger than is reasonably required or that his rent or rates are unreasonably high (regulation 2);
- (b) they add to the sums which are to be disregarded in calculating a person's earnings (regulation 3);
- (c) they amend the manner in which a student's income is calculated (regulations 4 and 7);
- (d) they amend the conditions which specify how notional capital attributed to a claimant is to be reduced (regulation 5);
- (e) they extend the provisions under which deaf students may be eligible for housing benefit to include students in receipt of certain educational awards from Great Britain (regulation 6);
- (f) they provide that no deduction shall be made in calculating the amount of housing benefit where a non-dependant aged less than 25 who is in receipt of income support resides with the claimant (regulation 8);
- (g) they extend the provisions governing the date on which a claim is made (regulation 9);
- (h) they amend the provision specifying the circumstances in which overpayments of benefit on account of official errors are not recoverable (regulation 10);
- (i) they extend the circumstances in which the Executive may substitute its own estimate of the cost of service charges which are ineligible for housing benefit where it considers that the charges made were unreasonably low (regulation 11);
- (j) they amend the circumstances in which the value of a right to receive income may be disregarded from a person's capital (regulation 12).