

1993 No. 145

HOUSING; RATES

**The Housing Benefit (General) (Amendment) Regulations
(Northern Ireland) 1993**

Made 26th March 1993

Coming into operation in accordance with regulation 1(1)

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1)(d), 129(2) and (4), 132(1), (3) and (4)(a) and (b) and 133(2)(h) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and of all other powers enabling it in that behalf, and after agreement by the Social Security Advisory Committee that proposals to make these regulations should not be referred to it(b), 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) 1993 and shall come into operation as follows—

- (a) regulation 1 on 1st April 1993;
- (b) regulations 2 to 14 in any case to which paragraph (2) applies, on 1st April 1993 and in any other case, on 5th April 1993;
- (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.

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

(4) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation)—

- (a) for the definition of “community charge benefit” there shall be substituted the following definition—

(a) 1992 c. 7

(b) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

(c) S.R. 1987 No. 461; relevant amending regulations are S.R. 1988 No. 424, S.R. 1989 No. 125, S.R. 1990 Nos. 33, 136 and 345, S.R. 1991 Nos. 47, 204, 337 and 520 and S.R. 1992 No. 141

(d) 1954 c. 33 (N.I.)

“ “community charge benefit” means community charge benefits under Part VII of the Social Security Contributions and Benefits Act 1992 as originally enacted(a);”;

(b) the definition of “community charge rebate” shall be omitted;

(c) after the definition of “concessionary payment” there shall be inserted the following definition—

“ “council tax benefit” means council tax benefit under Part VII of the Social Security Contributions and Benefits Act 1992;”.

Amendment of regulation 5 of the principal regulations

3. In regulation 5 of the principal regulations (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—

(a) in paragraph (5)(a)—

(i) at the beginning there shall be inserted “for a period not exceeding 52 weeks in the case”;

(ii) for “and it is reasonable” there shall be substituted—
“and—

(i) it is reasonable”;

(iii) for “the home;” there shall be substituted—
“the home, and

(ii) he intends to return to occupy the former dwelling as his home;”;

(b) in sub-paragraph (c) at the end “or” shall be omitted;

(c) in sub-paragraph (d) for “unavoidable.” there shall be substituted “unavoidable; or”;

(d) after sub-paragraph (d) there shall be added the following sub-paragraph—

“(e) in the case where a person—

(i) is treated by virtue of paragraph (6) as occupying a dwelling as his home (“the new dwelling”) and sub-paragraph (c)(i) of that paragraph applies, and

(ii) he has occupied another dwelling as his home on any day within the period of 4 weeks immediately preceding the date he moved to the new dwelling,

for a period not exceeding 4 benefit weeks immediately preceding the date on which he moved.”;

(e) in paragraph (7) after “housing benefit” in both places where those words appear there shall be inserted “in respect of that dwelling”;

(f) after paragraph (7) there shall be inserted the following paragraph—

(a) 1992 c. 4; Part VII was amended by section 103 of, and Schedule 9 to, the Local Government Finance Act 1992 (c. 14) which replaced references to community charge benefit with references to council tax benefit

“(7A) Where a person—

- (a) formerly occupied a dwelling but has left and remains absent from it through fear of violence—
 - (i) in the dwelling, or
 - (ii) by a person who was formerly a member of the family of the person first mentioned; and
 - (b) has a liability to make payments in respect of that dwelling which is unavoidable,
- he shall be treated as occupying the dwelling as his home for a period not exceeding 4 benefit weeks.”.

Amendment of regulation 10 of the principal regulations

4. In regulation 10(3) of the principal regulations (rent)—

- (a) in sub-paragraph (a) at the end “and” shall be omitted;
- (b) in sub-paragraph (b) for “Schedule 1.” there shall be substituted “Schedule 1; and”;
- (c) after sub-paragraph (b) there shall be added the following sub-paragraph—

“(c) where he is liable to make payments in respect of any service charges to which paragraph (1)(e) does not apply, but to which paragraph 2(1A) of Schedule 1 (ineligible service charges) applies in the particular circumstances, an amount in respect of such charges determined in accordance with paragraph 2(1A) of Schedule 1.”.

Amendment of regulation 30 of the principal regulations

5. In regulation 30 of the principal regulations (earnings of self-employed earners)—

- (a) for “ “Earnings” ” there shall be substituted—
“—(1) Subject to paragraph (2), “earnings” ”;
- (b) after paragraph (1) there shall be added the following paragraph—
“(2) “Earnings” shall not include any payment to which paragraph 26 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) refers.”.

Amendment of regulation 35 of the principal regulations

6. In regulation 35 of the principal regulations (notional income)—

- (a) in paragraph (3)(a) for “ordinary clothing or footwear, household fuel or eligible rent or rates or both,” there shall be substituted “household fuel or, subject to paragraph (9), rent or rates or both or ordinary clothing or footwear,”;
- (b) for paragraph (9) there shall be substituted the following paragraph—
“(9) In paragraph (3)—
(a) “rent or rates” means eligible rent or rates less any deductions

in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions);

- (b) “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.”.

Amendment of regulation 36 of the principal regulations

7. In regulation 36(2) of the principal regulations (modifications in respect of child and young person) after “any income of that child or young person” there shall be inserted “, other than income consisting of any payment of maintenance whether under a court order or not,”.

Amendment of regulation 43 of the principal regulations

8. In regulation 43 of the principal regulations (notional capital)—

- (a) in paragraph (3)(a) for “ordinary clothing or footwear, household fuel or eligible rent or rates or both,” there shall be substituted “household fuel or, subject to paragraph (7), rent or rates or both or ordinary clothing or footwear,”;

(b) for paragraph (7) there shall be substituted the following paragraph—
“(7) In paragraph (3)—

- (a) “rent or rates” means eligible rent or rates less any deductions in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions);
- (b) “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.”.

Amendment of regulation 63 of the principal regulations

9. In regulation 63(3) of the principal regulations (non-dependant deductions) for the words from “where a different amount” to the end there shall be substituted “where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.”.

Amendment of Schedule 1 to the principal regulations

10. In Schedule 1 to the principal regulations (ineligible service charges) in paragraph 2 (amount of ineligible charges)—

- (a) in sub-paragraph (1A) for “any service charge to which regulation 10(1)(e) (rent) applies and” there shall be substituted “any ineligible service charge”;

(b) after sub-paragraph (1A) there shall be inserted the following sub-paragraph—

“(1B) In sub-paragraph (1A) “ineligible service charge” includes any service charge which does not qualify as a periodical payment under regulation 10(1)(e) (rent).”.

Amendment of Schedule 3 to the principal regulations

11. In Schedule 3 to the principal regulations (sums to be disregarded in the calculation of earnings)—

(a) in paragraph 3(4)(c) after “sub-paragraph (2)” there shall be inserted “or (3)”;

(b) after paragraph 4 there shall be inserted the following paragraphs—

“4A.—(1) In a case to which neither paragraph 3 nor 4 applies to the claimant, and subject to sub-paragraph (2), where the claimant’s applicable amount includes an amount by way of the carer premium under Schedule 2 (applicable amounts), £15 of the earnings of the person who is, or at any time in the preceding 8 weeks was, in receipt of an invalid care allowance or treated in accordance with paragraph 14ZA(2) of that Schedule as being in receipt of an invalid care allowance.

(2) Where the carer premium is awarded in respect of the claimant and of any partner of his, their earnings shall, for the purposes of this paragraph, be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £15 of the aggregated amount.

4B. Where the carer premium is awarded in respect of a claimant who is a member of a couple and whose earnings are less than £15, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—

(a) specified in paragraph 6(1), so much of the other member’s earnings as would not when aggregated with the amount disregarded under paragraph 4A exceed £15;

(b) other than one specified in paragraph 6(1), so much of the other member’s earnings from such other employment up to £10 as would not when aggregated with the amount disregarded under paragraph 4A exceed £15.”;

(c) in paragraph 5 for “paragraph 3 does not apply” there shall be substituted “paragraphs 3, 4A and 4B do not apply”;

(d) in paragraph 6(1) for “to which neither paragraph 3 nor 4 applies” there shall be substituted “where paragraphs 3, 4, 4A and 4B do not apply”;

(e) in paragraph 9 for “19, 20 or 29” there shall be substituted “19 or 20”.

Amendment of Schedule 4 to the principal regulations

12. In Schedule 4 to the principal regulations (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 15—

(i) in sub-paragraph (2) for “ordinary clothing or footwear, household fuel or eligible rent or rates or both,” there shall be substituted “household fuel or, subject to sub-paragraph (5), rent or rates or both or ordinary clothing or footwear,”;

- (ii) for sub-paragraph (5) there shall be substituted the following sub-paragraph—
- “(5) In sub-paragraph (2)—
- (a) “rent or rates” means eligible rent or rates less any deductions in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions);
- (b) “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.”;
- (b) in paragraph 17(2) for the words from “only to the extent of” to the end there shall be substituted—
- “only to the extent of—
- (a) any mortgage repayments made in respect of the premises or land in the period during which that income accrued; or
- (b) any rates which the claimant is liable to pay in respect of the premises or land and which are paid in the period during which that income accrued.”;
- (c) paragraphs 29 and 42 shall be omitted;
- (d) in paragraph 44 at the end there shall be added “or reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992(a) (reduction of liability for council tax)”;
- (e) after paragraph 52 there shall be added the following paragraphs—
- “53. Any guardian’s allowance.
54. Any council tax benefit.”.

Amendment of Schedule 5 to the principal regulations

13. In Schedule 5 to the principal regulations (capital to be disregarded)—

- (a) paragraph 34 shall be omitted;
- (b) in paragraph 36 after “(reduction of liability for personal community charge)” there shall be inserted “or reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992,”;
- (c) after paragraph 43 there shall be added the following paragraph—
- “44. Any council tax benefit.”.

Revocations

14. The following regulations are hereby revoked—

- (a) regulations 2(a), 9(b) and 12(b) of the Housing Benefit (General) (Amendment No. 4) Regulations (Northern Ireland) 1988(a);
- (b) regulation 2(a) of the Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1990(b);
- (c) regulations 2, 4 and 5(b) of the Housing Benefit (General) (Amendment No. 3) Regulations (Northern Ireland) 1990(c); and
- (d) regulation 6 of the Housing Benefit (General) (Amendment No. 4) Regulations (Northern Ireland) 1991(d).

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 26th March 1993.

(L.S.)

A. Devlin

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

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

- (a) they substitute the definition of “community charge benefit”, omit the definition of “community charge rebate” and insert a definition of “council tax benefit” (regulation 2);
- (b) they further specify the circumstances in which a person is to be treated as occupying a dwelling as his home, in cases of domestic violence and where a dwelling is adapted in respect of a person’s disablement needs (regulation 3);
- (c) they enable the Northern Ireland Housing Executive to substitute a higher figure for unreasonably low ineligible service charges, whether or not payment of the charges is a condition of the right to occupy the dwelling (regulations 4 and 10);
- (d) they provide that certain payments in respect of children accommodated with a claimant are not to be treated as the earnings of a self-employed earner (regulation 5);

(a) S.R. 1988 No. 424
 (b) S.R. 1990 No. 136
 (c) S.R. 1990 No. 345
 (d) S.R. 1991 No. 337

- (e) they provide that when certain payments, including payments made by a third party, are used to pay the claimant's rent or rates, the rent or rates to be taken into account is the claimant's eligible rent or rates less certain deductions in respect of non-dependants (regulations 6 and 8);
- (f) they provide that where a child or young person has capital in excess of £3,000, any income of that child or young person consisting of maintenance is to be treated as income of the claimant (regulation 7);
- (g) they specify, in relation to the calculation of a person's maximum housing benefit, the deduction to be made in the case of non-dependants and their partners (regulation 9);
- (h) they provide, with respect to the calculation of income, a disregard of guardian's allowance and a disregard in respect of the earnings of a claimant or partner who is entitled to the carer premium, and remove the disregard of maintenance payments made by a claimant. They specify further the amount to be disregarded in relation to certain claimants entitled to the higher pensioner premium and amend the disregards in respect of charitable and voluntary payments and income arising from disregarded capital (regulations 11 and 12(a), (b), (c) and (e));
- (i) they make changes consequential on the abolition of community charges, the introduction of council tax and the introduction of council tax benefit in Great Britain in succession to community charge benefits (regulations 12(c), (d) and (e) and 13);
- (j) they contain consequential revocations (regulation 14).