

2005 No. 444

HOUSING; RATES

**The Housing Benefit (Miscellaneous Amendments No.3)
Regulations (Northern Ireland) 2005**

Made - - - - 10th October 2005

Coming into operation in accordance with regulation 1(1)

The Department for Social Development, in exercise of the powers conferred by sections 122(1)(d), 129(4), 131(1), 132(3), (4)(a) and (b), 132A(3) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and sections 5(1)(l) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(b) and Articles 34(2) and 74(1) of the Social Security (Northern Ireland) Order 1998 (c), and now vested in it(d), and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(e), after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(f), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Miscellaneous Amendments No. 3) Regulations (Northern Ireland) 2005 and shall come into operation—

- (a) in relation to any case where rent is payable at intervals of a whole number of weeks, on 3rd April 2006, and
- (b) for all other purposes on 1st April 2006.

(2) In these Regulations—

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations (Northern Ireland) 1987(g);

“the State Pension Credit Regulations” means the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003(h).

(a) 1992 c. 7; section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c.14 (N.I.)); section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(b) 1992 c. 8

(c) S.I. 1998 No. 1506 (N.I. 10)

(d) See Article 8(b) of S.R. 1999 No. 481

(e) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I.1993/1579 (N.I. 8)); see also Article 6(b) of S.R. 1999 No. 481

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

(g) S.R. 1987 No. 461; relevant amending Rules are S.R. 1990 No. 137, S.R. 1992 Nos. 6, 85 and 141, S.R. 1994 No. 274, S.R. 1995 No. 89, S.R. 1996 No. 448, S.R. 1997 No. 4, S.R. 1998 No. 81, S.R. 2000 No. 367, S.R. 2001 Nos. 176, 213 and 215, S.R. 2003 Nos. 1, 187, 197 and 261, S.R. 2004 Nos. 46, 82, 144 and 390 and S.R. 2005 No. 185

(h) S.R. 2003 No.197; relevant amending Regulations are S.R. 2003 Nos. 261 and 418

(3) The Interpretation Act (Northern Ireland) 1954(a) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Housing Benefit Regulations

2.—(1) Subject to paragraph (2) the Housing Benefit Regulations shall be amended in accordance with paragraphs (3) to (17).

(2) The amendments made by paragraphs (3), (6) and (16) are to the Housing Benefit Regulations as modified in their application to persons to whom regulation 2 of the State Pension Credit Regulations applies.

(3) In regulation 16(b) (applicable amounts)—

(a) paragraphs (2), (3) and (4) shall be omitted;

(b) for paragraph (5) there shall be substituted the following paragraph—

“(5) In Schedule 2A(c)—

“additional spouse” means a spouse of either party to the marriage who is additional to the other party to the marriage;

“patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a young offenders centre or a juvenile justice centre) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(d).”;

(c) paragraph (7) shall be omitted.

(4) Regulation 18(e) (patients) shall be omitted.

(5) In regulation 21A(4)(c)(f) (treatment of child care charges) for “within the meaning of regulation 18(2) (patients)” there shall be substituted “, which in this regulation shall mean a person (other than a person who is serving a sentence of imprisonment or detention in a young offenders centre or a juvenile justice centre) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975.”.

(6) In regulation 36(7)(a) (notional income), after “regulation 69(2)(b)” there shall be inserted “or (c)”.

(7) In regulation 63(7)(e)(g) (non-dependant deductions) for heads (i) and (ii) there shall be substituted the following heads—

“(i) “patient” has the meaning given in paragraph (9) of regulation 5 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home),

(ii) where a person has been a patient for 2 or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods, and”.

(8) In regulation 65 (date on which entitlement is to commence)—

(a) paragraph (3)(h) shall be omitted;

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

(b) Regulation 16 was substituted by regulation 6(1) of S.R. 2003 No. 197 and amended by S.R. 2003 Nos. 261 and 418

(c) Schedule 2A was inserted by regulation 6(2) of S.R. 2003 No. 197

(d) S.R. 1975 No. 109

(e) Regulation 18 was amended by regulation 7(e) of S.R. 1996 No. 448, regulation 2 of S.R. 1997 No. 4, regulation 4(3) of S.R. 2003 No. 261 and Article 16(6) of S.R. 2005 No. 82

(f) Regulation 21A was inserted by regulation 2(3) of S.R. 1994 No. 274

(g) Regulation 63(7)(e) was added by regulation 2(d)(iv) of S.R. 1992 No. 85 and amended by regulation 4(4) of S.R. 2003 No. 261 and regulation 5(1) and (2)(a)(ii) of S.R. 1998 No. 81

(h) Paragraph (3) was added by regulation 4(3)(b) of S.R. 1990 No. 137

- (b) for paragraph (5)(a), there shall be substituted the following paragraph—
- “(5) A claimant shall become entitled to housing benefit from the benefit week in which the first day in respect of which his claim is made falls, where he is otherwise entitled to housing benefit and—
- (a) regulation 72B applies to him and he becomes liable in that benefit week, for the first time, to make payments in respect of a dwelling which he occupies as his home, or,
- (b) paragraph (2) does not apply to him and he becomes liable in that benefit week to make payments, which fall due on a daily basis, in respect of a hostel which he occupies as his home.”.
- (9) In regulation 68 (date on which change of circumstances is to take effect)—
- (a) paragraph (1A)(b) shall be omitted;
- (b) for paragraph (2)(c) there shall be substituted the following paragraph—
- “(2) Subject to paragraph (13), except in a case where regulation 8(3) of the Decisions and Appeals Regulations (d) applies, where the change of circumstances is a change in the amount of rent or rates payable in respect of a dwelling, that change shall take effect from the day on which it actually occurs.”;
- (c) after paragraph (2) there shall be inserted the following paragraph—
- “(2A) Subject to paragraphs (13) and (14), except in a case to which regulation 8(3) of the Decisions and Appeals Regulations applies, where the change of circumstances is—
- (a) that a person moves into a new dwelling occupied as the home, or
- (b) any other event which—
- (i) entitles a person to be treated as occupying 2 dwellings as his home under regulation 5(5), or
- (ii) brings to an end a person’s right to be treated as occupying 2 dwellings as his home under that regulation, in a case where he has, immediately prior to the event, being treated as occupying 2 dwellings as his home,
- that change of circumstances shall take effect on the day on which it actually occurs.
- (2B) Subject to paragraph (13), where the change of circumstances is the expiry of a maximum period of time, referred to in regulation 5(5), for which a person can be treated as occupying 2 dwellings as his home, that change shall take effect on the day after the last day of that period.”.
- (d) in paragraph (3)(e)—
- (i) “and (14)” shall be omitted;
- (ii) in sub-paragraph (a)(i), after “69(2)(b)” there shall be inserted “or (c)”;
- (e) for paragraph (4)(f) there shall be substituted the following paragraph—
- “(4) Subject to paragraph (13), if 2 or more changes of circumstances occurring in the same benefit week would, but for this paragraph, take effect in different benefit weeks in accordance with this regulation they shall take effect on the first day of the benefit week in which they occur unless a change taking effect under paragraphs (2), (2A) or (2B) takes effect in that week, in which case the changes shall all take effect on the day on which that change takes effect.”;
- (f) for paragraphs (13) and (14) there shall be substituted the following paragraphs—

(a) Paragraph (5) was added by regulation 2(4)(b) of S.R. 2004 No. 390
 (b) Paragraph (1A) was inserted by regulation 2(2)(b) of S.R. 2003 No. 189
 (c) Paragraph (2) was amended by regulation 8(a)(ii) of S.R. 2001 No. 215 and regulation 13(b) of S.R. 2004 No. 144
 (d) S.R. 2001 No. 213; paragraph (3) was amended by regulation 19(2)(b) of S.R. 2003 No. 197
 (e) Paragraph (3) was substituted by regulation 7(b) of S.R. 1992 No. 141
 (f) Paragraph (4) was amended by regulation 7(c) of S.R. 1992 No. 141 and regulation 13(b) of S.R. 2004 No. 144

“(13) Subject to paragraph (14), where a change of circumstances occurs which has the effect of bringing entitlement to an end it shall take effect on the first day of the benefit week following the benefit week in which that change actually occurs except in a case where a person is liable to make payments, which fall due on a daily basis, in respect of a hostel in which case that change shall take effect on the day on which it actually occurs.

(14) Where the change of circumstances is that a person moves to a new dwelling and immediately after the move he is treated as occupying his former dwelling as his home in accordance with regulation 5(5A) or (7A) then that change of circumstances shall take effect on the day after the last day for which he is treated as liable to make payments in respect of the former dwelling in accordance with whichever of those regulations applies in his case.”.

(10) In regulation 68B(7A)(a)(i)(a)(change of circumstances where state pension credit payable), after “regulation 69(2)(b)”, there shall be inserted “or (c)”.

(11) In regulation 69 (calculation of weekly amounts)—

(a) in paragraph (2)—

(i) in sub-paragraph (a) for “paragraph (4)” there shall be substituted “paragraph (5)”;

(ii) for sub-paragraph (b) there shall be substituted the following sub-paragraphs—

“(b) subject to paragraph (5), where the rent is payable at intervals of a calendar month or multiples thereof, the amount determined by dividing the amount payable by the number equal to the number of calendar months in respect of which it is payable, multiplying by 12 and dividing by 52;

(c) subject to paragraph (5), where the rent is payable at intervals of a day or multiples thereof, the amount determined by dividing the amount payable by the number equal to the number of days in respect of which it is payable and multiplying by 7.”;

(b) in paragraph (3) for paragraph (b) there shall be substituted the following paragraphs—

“(b) subject to paragraph (5), where the rent is payable at intervals of a calendar month or multiples thereof, the amount determined by dividing the amount payable by the number equal to the number of calendar months in respect of which it is payable, multiplying by 12 and dividing by 52;

(c) subject to paragraph (5), where the rent is payable at intervals of a day or multiples thereof, the amount determined by dividing the amount payable by the number equal to the number of days in respect of which it is payable and multiplying by 7.”;

(c) paragraph (4) shall be omitted;

(d) for paragraph (5) there shall be substituted the following paragraph—

“(5) In a case—

(a) to which regulation 65(2) or (5) (date on which entitlement is to commence) applies, his eligible rent or rates for the benefit week in which he becomes liable to make payments in respect of a dwelling which he occupies as his home shall be calculated by multiplying his daily rent or daily rates by the number equal to the number of days in that benefit week for which he is liable to make such payments;

(b) where a change of circumstances takes effect in a benefit week under regulation 68(2A), (but is not a change described in sub-paragraph (c)(ii) of this regulation), (2B), (13) or (14) other than on the first day of a benefit week then the claimant’s eligible rent for that benefit week shall be calculated by multiplying his daily rent by the appropriate number of days in that benefit week;

(c) where—

(a) Regulation 68B was inserted by regulation 13(4) of S.R. 2003 No. 197 and paragraph (7A) was inserted by regulation 3(2) of S.R. 2004 No. 46

- (i) the amounts of eligible rent or rates which the claimant is liable to pay in respect of a dwelling is altered and that change of circumstances takes effect under regulation 68(2), or
- (ii) the claimant—
 - (aa) moves to a new dwelling occupied as the home;
 - (bb) he is not entitled to be treated, immediately after that move, as occupying 2 dwellings as his home or as occupying his former dwelling as his home, and
 - (cc) that change of circumstances takes effect under regulation 68(2A), other than on the Monday of a benefit week, then the claimant’s eligible rent or rates for that benefit week shall be calculated by multiplying his old and new daily rent or rates by the number equal to the number of days in that week which relate respectively to the old and new amounts which he is liable to pay.”;
- (e) in paragraph (6) for “(5)(a) or (c)” there shall be substituted “(5)(a) or (b)”;
- (f) in paragraph (7) for “(5)(b)” there shall be substituted “(5)(c)”;
- (g) after paragraph (9) there shall be added the following paragraphs—
 - “(10) In this regulation “daily rent” shall mean the amount determined by dividing by 7 the amount determined under whichever sub-paragraph of paragraph (2) is appropriate in each case.
 - (11) Where a claimant is entitled to benefit in respect of 2 (but not more than 2) dwellings in accordance with regulation 5(5) his eligible rent or rates shall be calculated in respect of each dwelling in accordance with this regulation.”.
- (12) In regulation 70(a) (rent and rate-free periods)—
 - (a) for paragraph (2) there shall be substituted—
 - “(2) In the case of the beginning or ending of a claimant’s rent and rate-free period, his eligible rent or rates for the benefit week in which the rent and rate-free period begins and ends shall be calculated on a daily basis as if those benefit weeks were weeks to which regulation 69(5) applies.”;
 - (b) in paragraph (3)(b) after “regulation 69(2)(b)” there shall be inserted “or (c)”.
- (13) In regulation 75(6)(b) (duty to notify changes of circumstances) sub-paragraph (b) shall be omitted .
- (14) In Schedule 2 (applicable amounts)—
 - (a) in paragraph 12(1)(a)(iii)(c) (additional condition for the higher pensions and disability premium)—
 - (i) from “except” to “applies” shall be omitted, and
 - (ii) for “regulation 18(2) (patients)” there shall be substituted “regulation 21A(4)(c) (treatment of child care charges)”;
 - (b) in paragraph 13A(2)(d) (enhanced disability premium) in sub-paragraph (b)(ii) for “regulation 18(2) (patients)” there shall be substituted “regulation 21A(4)(c)”, and
- (15) In paragraph 8(1)(e)(e) of Schedule 5 (capital to be disregarded), from “where” to “circumstances” shall be omitted.

(a) Regulation 70 was amended by regulation 15 of S.R. 2004 No. 144 and regulation 3 of S.R. 2005 No. 331
 (b) Paragraph (6) was added by regulation 15(b) of S.R. 2003 No. 197
 (c) Paragraph (1)(a)(iii) was substituted by regulation 11(4)(ii) of S.R. 1992 No. 6 and amended by regulation 10 of S.R. 1995 No. 89
 (d) Paragraph 13A was inserted by regulation 3(b)(ii) of S.R. 2000 No. 367 and amended by regulation 4(5) of S.R. 2003 No. 261 and regulation 2(6) of S.R. 2005 No. 185
 (e) Sub-paragraph (e) was inserted by paragraph 12(b) of Schedule 2 to S.R. 2003 No. 1

(16) In paragraph 21(2) of Schedule 5ZA(a), after sub-paragraph (k) there shall be added the following sub-paragraphs—

- “(l) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations (Northern Ireland) 2001(b); or
- (m) working tax credit.”.

(17) In paragraph 9(2)(b)(c) of Schedule 6 (matters to be included in the decision notice) from “and” to “benefit” shall be omitted.

Sealed with the Official Seal of the Department for Social Development on 10th October 2005.



John O'Neill

A senior officer of the Department for Social Development

The Department of Finance and Personnel hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 10th October 2005.



Jack Layberry

A senior officer of the Department of Finance and Personnel

(a) Schedule 5ZA was inserted by S.R. 2003 No. 197 and paragraph 21(2) was amended by S.R. 2003 No. 418
(b) S.R. 2001 No. 216
(c) Sub-paragraph (2)(b) was inserted by regulation 16(2) of S.R. 2003 No. 197

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit (General) Regulations (Northern Ireland) 1987 (“the Housing Benefit Regulations”).

The Housing Benefit Regulations were modified by the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003 (“the 2003 Regulations”) for persons who have attained the qualifying age for state pension credit (except where regulation 2(2), of the Housing Benefit Regulations applies).

Regulation 2 amends the Housing Benefit Regulations as so modified and as not so modified, as set out in paragraphs (1) and (2).

Paragraph (3) removes from regulation 16 (as modified by the 2003 Regulations) provisions which provide for the reduction of a claimant’s applicable amount where he or his partner is a long term patient. It also removes other ancillary provisions from that regulation.

Paragraph (4) removes regulation 18 which contains an equivalent provision which applies to claimants who have not reached the qualifying age for state pension credit.

Paragraph (5) imports into regulation 21A(4)(c) the definition of “patient” previously in regulation 18.

Paragraph (6) makes a minor, technical amendment to regulation 36(7)(a) (as modified by the 2003 Regulations).

Paragraphs (7) and (10) amend regulations 63(7) and 68B which prevent non-dependent deductions being made where the non-dependent is a long term patient, by amending the definition of “patient” and the rule under which periods of time spent as a patient are calculated.

Paragraph (8) amends regulation 65 by removing an obsolete provision and inserting a new paragraph (5) under which the benefit week from which a claimant becomes entitled to housing benefit is determined in particular circumstances.

Paragraph (9) omits paragraph (1A) of regulation 68 and inserts into that regulation new provisions under which the date on which a change of circumstances takes effect is determined in various, specified circumstances. It also makes other minor, technical amendments.

Paragraphs (11) and (12) amend regulations 69 and 70 by inserting new provisions under which a claimant’s weekly eligible rent is calculated and making other ancillary, technical and consequential amendments.

Paragraph (13) amends regulation 75(6) by removing the requirement on a person receiving only savings credit to report changes affecting child tax credit or child benefit.

Paragraph (14) makes minor, technical amendments to Schedule 2.

Paragraph (15) removes the requirement that arrears of working tax credit or child tax credit must be paid as a result of a change of circumstances in order to be disregarded in a claimant’s assessment of capital.

Paragraph (16) amends paragraph 21(2) of Schedule 5ZA (inserted by the 2003 Regulations) by adding discretionary housing payments and working tax credit to the list of benefits which may be disregarded as capital in the assessment of a claimant’s capital.

Paragraph (17) amends paragraph 9(2) of Schedule 6 by removing the requirement to refer in a decision notice to the amount of any child tax credit or child benefit where a person on state pension credit is entitled only to savings credit.

The regulations do not impose any charge on business.

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