

2005 No. 493

HOUSING; RATES

**The Housing Benefit (Miscellaneous Amendments No. 4)
Regulations (Northern Ireland) 2005**

Made - - - - - *8th November 2005*

Coming into operation - *10th November 2005*

The Department for Social Development, in exercise of the powers conferred by sections 129(2), 131(5) and (6), 132(4)(a) and (b), 132A(3), 133(2)(c) and (d) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), sections 5(1)(a), (b), (hh), (j) and (l), 5A(1) and (2)(b) and 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992(b), Article 74(1) and (7) of the Social Security (Northern Ireland) Order 1998(c) and paragraphs 1, 13, 14, 15, 20 and 23 of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(d), and now vested in it(e), and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(f), and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(g), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2005 and shall come into operation on 10th November 2005.

(2) In these Regulations—

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

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- (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 133(2)(d) was substituted by paragraph 18(3) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)); section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
- (b) 1992 c.8; paragraph (hh) was inserted by Article 5 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)); section 5A was inserted by Article 68 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))
- (c) S.I. 1998/1506 (N.I. 10); Article 74(1) was amended by paragraph 17 of Schedule 4 to the Tax Credits Act 2002 (c.21)
- (d) 2000 c. 4 (N.I.)
- (e) See Article 8(b) of S.R. 1999 No. 481
- (f) 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
- (g) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
- (h) S.R. 1987 No. 461; relevant amending rules are S.R. 1990 Nos. 137, 305 and 345, S.R. 1991 Nos. 47, 176 and 520, S.R. 1992 No. 404, S.R. 1993 Nos. 145 and 381, S.R. 1994 Nos. 274 and 335, S.R. 1996 Nos. 93, 181 and 334, S.R. 1998 No. 81, S.R. 1999 No. 298, S.R. 2000 Nos. 242 and 260, S.R. 2001 Nos. 175 and 215, S.R. 2002 No. 299, S.R. 2003 Nos. 197, 317 and 418, S.R. 2004 No. 516 and S.R. 2005 No. 148

“the State Pension Credit Regulations” means the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003(a);

“the Decisions and Appeals Regulations” means the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(b).

(3) The Interpretation Act (Northern Ireland) 1954(c) 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 (2) to (20).

(2) The amendments made by paragraphs (5), (7), (10) and (12) are to the Housing Benefit Regulations as modified in their application to persons to whom regulation 2(1) of the State Pension Credit Regulations applies.

(3) In regulation 2 (interpretation) in the definition of “appropriate office”(d) after “Department” there shall be inserted “dealing with state pension credit or an office”.

(4) In regulation 21A(e) (treatment of child care charges)—

(a) in paragraph (6)(f) for “paragraph (2)” there shall be substituted “paragraphs (2ZA) and (2ZC)(b)”; and

(b) in paragraph (6)(c) for “28 weeks immediately preceding the date of claim” there shall be substituted “period beginning 28 weeks before the first Monday in September following that person’s fifteenth birthday and ending on the day preceding the first Monday in September following that person’s sixteenth birthday.”.

(5) In regulation 27(10)(c) (treatment of child care charges) for “28 weeks immediately preceding the date of claim” there shall be substituted “period beginning 28 weeks before the first Monday in September following that person’s fifteenth birthday and ending on the day preceding the first Monday in September following that person’s sixteenth birthday”.

(6) In regulation 29(4)(a)(g) (calculation of net earnings of employed earners) for “in the year of assessment in which the claim was made” there shall be substituted “applicable to the assessment period”.

(7) In regulation 31(5)(a)(h) (calculation of net earnings of employed earners) for “in the year of assessment in which the claim was made” there shall be substituted “applicable to the assessment period”.

(8) In regulation 32(i) (deduction of tax and contributions of self-employed earners)—

(a) in paragraph (1) for “in the year of assessment in which the claim was made” there shall be substituted “applicable to the assessment period”; and

(b) in sub-paragraphs (a) and (b) of paragraph (2)—

(i) for “at the date of claim” there shall be substituted “to the assessment period”, and

(ii) for “in which the date of claim falls” there shall be substituted “applicable to the assessment period”.

(a) S.R. 2003 No.197; relevant amending regulations are S.R. 2003 No. 418

(b) S.R. 2001 No. 213

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

(d) The definition was amended by regulation 2(a)(i) of S.R. 1996 No. 334

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

(f) Paragraph (6) was added by regulation 4(4) of S.R. 1999 No. 298

(g) Paragraph (4) was amended by regulation 5 of S.R. 1992 No. 404 and regulation 3(c)(i) and (ii) of S.R. 1994 No. 335

(h) Sub-paragraph (a) was amended by regulation 2(5)(g) of S.R. 2003 No. 418

(i) Paragraph (1) was amended by regulation 6 of S.R. 1992 No. 404 and regulation 5 of S.R. 1994 No. 335 and paragraph (2) was substituted by regulation 9 of S.R. 1993 No. 381

(9) In regulation 34(1)(a) (capital treated as income) for “review” there shall be substituted “revision or supersession”.

(10) In regulation 35(deduction of tax and contributions of self-employed earners)—

(a) in paragraph (1) for “in the year of assessment in which the claim was made” there shall be substituted “applicable to the assessment period”; and

(b) in sub-paragraphs (a) and (b) of paragraph (2)—

(i) for “at the date of claim” there shall be substituted “to the assessment period”, and

(ii) for “in which the date of claim falls” there shall be substituted “applicable to the assessment period”.

(11) In regulation 35(7)(a)(b) (notional income) for “in the year of assessment in which the claim was made” there shall be substituted “applicable to the assessment period”.

(12) In regulation 40(b)(i) (calculation of capital in the United Kingdom) for “review” there shall be substituted “revision or supersession”.

(13) In regulation 41(b)(i) (calculation of capital in the United Kingdom) for “review” there shall be substituted “revision or supersession”.

(14) In regulation 59 (income treated as capital)—

(a) in paragraph (3)(c) for “paragraph 15(2) of Schedule 4” there shall be substituted “paragraph (4)”;

(b) after paragraph (3) there shall be added the following paragraph—

“(4) In sub-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) the expression “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.”.

(15) In regulation 72 (time and manner in which claims are to be made)—

(a) in paragraph (4)—

(i) in sub-paragraph (a)(d) after “income support” there shall be inserted “, state pension credit”, and

(ii) in sub-paragraph (e)(e) for the words from “an office” to the end there shall be substituted “an authorised office”;

(b) in paragraph (5)—

(i) in sub-paragraphs (a)(f) and (bb)(g) for “4 weeks” there shall be substituted “one month”;

(ii) sub-paragraphs (aa)(h), (b) and (c) shall be omitted;

(iii) after sub-paragraph (c) there shall be inserted the following sub-paragraphs—

“(cc) in a case where the claimant is the former partner of a person who was, at the date of his death or their separation, entitled to housing benefit

(a) Paragraph (1) was amended by regulation 4(2) of S.R. 1990 No. 137

(b) Sub-paragraph (a) was amended by regulation 7 of S.R. 1992 No. 404 and regulation 5 of S.R. 1994 No. 335

(c) Paragraph (3) was added by regulation 4(9) of S.R. 2000 No. 242

(d) Sub-paragraph (a) was amended by regulation 13(a) of S.R. 1996 No. 334

(e) Sub-paragraph (e) was inserted by regulation 3(a) of S.R. 2003 No. 317

(f) Sub-paragraph (a) was amended by regulation 4(4)(a) of S.R. 1990 No. 137, regulation 3(a) of S.R. 1991 No. 176, regulation 13(b)(i) of S.R. 1996 No. 334 and regulation 14(a)(i) of S.R. 2003 No. 197

(g) Sub-paragraph (bb) was inserted by regulation 9(a) of S.R. 1991 No. 47, regulation 13(b)(ii)(c) of S.R. 1996 No. 334 and regulation 14(a)(iii) of S.R. 2003 No. 197

(h) Sub-paragraph (aa) was inserted as sub-paragraph (aaa) by regulation 14(a)(ii) of S.R. 2003 No. 197 and renumbered by regulation 2(10)(a) of S.R. 2003 No. 418

and the claimant makes a claim within one month of the date of the death or the separation, that date;

- (ccc) except where sub-paragraph (a), (bb) or (cc) is satisfied, in a case where a properly completed claim is received by a designated office, an authorised office or an appropriate office within one month, or such longer period as the relevant authority considers reasonable, of the date on which the claim form was issued following the claimant first notifying, by whatever means, a designated office, an authorised office or an appropriate office of his intention of making a claim, the date of first notification;”, and
- (iv) in sub-paragraph (d)(a) after “designated office” there shall be added “, authorised office or appropriate office”;
- (c) in paragraph (8)—
 - (i) in sub-paragraph (a)(b)—
 - (aa) for “4 weeks” there shall be substituted “one month”;
 - (bb) after “requested to complete it” there shall be inserted “or the evidence”; and
 - (cc) after “the request” there shall be omitted “to complete”, and
 - (ii) in sub-paragraph (b)(i) and (ii) for “4 weeks” there shall be substituted “one month”; and
- (d) after paragraph (16)(c) there shall be added the following paragraph—

“(17) In this regulation “authorised office” means an office which is nominated by the Department and authorised by the relevant authority for receiving claims for decision by the relevant authority.”.
- (16) In regulation 72A(1)(b) and (4)(b)(i)(bb) and (iii)(cc)(d) (date of claim where claim sent or delivered to an office of the Department, the Department for Employment and Learning or a person providing services to either of those Departments) for “4 weeks” there shall be substituted “one month”.
- (17) In regulation 73(1)(e) (evidence and information) for “4 weeks” there shall be substituted “one month”.
- (18) In regulation 94(1A)(f) (circumstances in which payment may be made to a landlord or the Department of Finance and Personnel) after “on a claim” there shall be inserted “or a supersession under paragraph 4 of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000”.
- (19) In paragraph 6(2)(a) of Schedule 2A(g) (applicable amounts for persons who have attained or whose partner has attained the qualifying age for state pension credit) after “single claimant” there shall be inserted “, lone parent”.
- (20) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings)—
 - (a) in paragraph 15(h)—
 - (i) sub-paragraphs (1)(i) and (2)(j) shall be omitted;
 - (ii) for sub-paragraph (2A)(k) there shall be substituted the following sub-paragraph—

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- (a) Sub-paragraph (d) was added by regulation 3(b) of S.R. 2003 No. 317
 - (b) Paragraph (8) was substituted by regulation 2(2)(c) of S.R. 2004 No. 516
 - (c) Paragraph (16) was added by regulation 4(4)(b) of S.R. 1990 No. 137
 - (d) Regulation 72A was inserted by regulation 7 of S.R. 2001 No. 175
 - (e) Paragraph (1) was substituted by regulation 7(b) of S.R. 2001 No. 215
 - (f) Paragraph (1A) was inserted by regulation 7(a) of S.R. 1996 No.181 and amended by regulation 4(m) of S.R. 2001 No. 215
 - (g) Schedule 2A was inserted by regulation 12 of, and Schedule 2 to, S.R. 2003 No. 197
 - (h) Paragraph 15 was substituted by regulation 11(a) of S.R.1990 No. 345
 - (i) Sub-paragraph (1) was amended by regulation 7(b) of S.R. 1996 No. 93 and regulation 3(1)(a) and (2)(a) of S.R. 2002 No. 299
 - (j) Sub-paragraph (2) was amended by regulation 12(a)(i) of S.R. 1993 No. 145 and regulation 3(1)(b) and (2)(a) of S.R. 2002 No. 299
 - (k) Sub-paragraph (2A) was inserted by regulation 2(8) of S.R. 2005 No. 148

- “(2A) Subject to sub-paragraph (3), any of the following payments—
- (a) a charitable payment;
 - (b) a voluntary payment;
 - (c) a payment (not falling within sub-paragraph (a) or (b)) from a trust whose funds are derived from a payment made in consequence of any personal injury to the claimant;
 - (d) a payment under an annuity purchased—
 - (i) pursuant to any agreement or court order to make payments to the claimant, or
 - (ii) from funds derived from a payment made, in consequence of any personal injury to the claimant; or
 - (e) a payment (not falling within sub-paragraphs (a) to (d) received by virtue of any agreement or court order to make payments to the claimant in consequence of any personal injury to the claimant.”;
- (iii) in sub-paragraph (3)(a) for “Sub-paragraphs (1) to (2A)” there shall be substituted “Sub-paragraph (2A)”, and
- (iv) sub-paragraphs (4), (5) and (6) shall be omitted; and
- (b) in paragraph 35(b) for “paragraphs 14A,” there shall be substituted “paragraphs ”.

Amendment of the Decisions and Appeals Regulations

3. In regulation 14(2) of the Decisions and Appeals Regulations (termination in cases of a failure to furnish information) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

- “(a) subject to sub-paragraph (b) before the end of the period under regulation 13(4) for the provision of information.”.

Sealed with the Official Seal of the Department for Social Development on 8th November 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 9th November 2005.



Jack Layberry

A senior officer of the Department of Finance and Personnel

(a) Sub-paragraph (3) was substituted by regulation 3(3)(a) of S.R. 1991 No. 520
(b) Paragraph 35 was amended by regulation 3(3) of S.R. 1990 No. 305, regulation 7(b) of S.R. 1996 No. 93, regulation 4(3) of S.R. 1998 No. 81, regulation 4(10) of S.R. 2000 No. 242 and regulation 4(3)(b) of S.R. 2000 No. 260

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Housing Benefit (General) Regulations (Northern Ireland) 1987 (“the Housing Benefit Regulations”) as so and as not so modified by the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003 as set out in regulation 2(2) and the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001 (“the Decisions and Appeals Regulations”).

Regulation 2(3) expands the definition of “appropriate office” to include an office dealing with state pension credit.

Regulation 2(4) and (5) provides that a person is considered to be disabled for the purpose of determining child care charge deductions if they cease to be registered as blind within the period that begins 28 weeks before the first Monday in September following their fifteenth birthday and ends on the day preceding the first Monday in September following the person’s sixteenth birthday.

Regulation 2(6), (7), (8), (10) and (11) provides that the tax rates to be used to determine the amount of tax and contributions that should be deducted to find the net amount of profit or earnings shall be the rate applicable to the assessment period.

Regulation 2(9), (12) and (13) substitutes the term “revision and supersession” for the term “review”, which reflects updated terminology.

Regulation 2(14) makes amendments consequential to the amendments made by regulation 2(20).

Regulation 2(15) revokes rules linking a claim for housing benefit to certain social security benefits. It also introduces two new rules for determining the date of claim. The first relates to bereaved or separated persons and the second provides that the date of claim is the date a claimant notifies his intention of making a claim provided he makes that claim within one month of being issued with a claim form. It also aligns the time scales for providing information and backdating claims in the Housing Benefit Regulations with those used in other benefits and in the Decisions and Appeals Regulations.

Regulation 2(16) and (17) align the time scales for providing information and backdating claims in the Housing Benefit Regulations with those used in other benefits and in the Decisions and Appeals Regulations.

Regulation 2(18) provides for the Northern Ireland Housing Executive to send an instrument for the first payment of a rent allowance to the claimant, made payable to the landlord, where it has superseded an earlier decision on the claim due to a change in the claimant’s address.

Regulation 2(19) includes lone parents in the list of those who have attained the qualifying age for state pension credit and who may be treated as severely disabled in the stipulated circumstances.

Regulation 2(20) extends the number of payments that should be fully disregarded in the calculation of income other than earnings and paragraph (20)(b) makes amendments consequential to that change.

Regulation 3 amends the Decisions and Appeals Regulations to shorten the time before a relevant authority can terminate an award of housing benefit following the suspension of its payment.

These Regulations do not impose any charge on business.

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