STATUTORY RULES OF NORTHERN IRELAND

2017 No. 70

SOCIAL SECURITY

The Housing Benefit and Universal Credit (Size Criteria) (Miscellaneous Amendments) Regulations (Northern Ireland) 2017

	at 9.00 a.m. on 30th
Made - - - -	*March 2017*
	at 2.00 p.m. on 30th
Laid before Parliament	*March 2017*

Coming into operation in accordance with regulation 1.

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by section 122(1)(d), 129A(2), (3) and (4), 133(1), and 171(1), (3) and (4) and (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), and Articles 5, 16(4) and 48(1) of the Welfare Reform (Northern Ireland) Order 2015(**2**).

These powers are exercisable by the Secretary of State by virtue of Article 4(1)(a) and (b) of the Welfare Reform (Northern Ireland) Order 2015.

Citation, commencement, interpretation and transitional provision

1.—(1) These Regulations may be cited as the Housing Benefit and Universal Credit (Size Criteria) (Miscellaneous Amendments) Regulations (Northern Ireland) 2017.

(2) This regulation and regulations 2 and 3 come onto operation on 20th April 2017.

(3) Regulation 4 comes into operation on the day on which Article 6 of the Welfare Reform (Northern Ireland) Order 2015 (universal credit) comes into operation for all purposes in respect of the whole or any part of Northern Ireland.

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

(**1**) 1992 c. 7; section 129A was inserted by section 30(2) of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)) and subsequently amended by Article 75 of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21). Section 133(1) is cited for the meaning of "prescribed"

(**2**) S.I 2015/2006 (N.I. 1). Article 5 is an interpretation provision an is cited for the meaning of "prescribed"

(**3**) 1954 c. 33 (N.I.)

Amendment of the Housing Benefit Regulations (Northern Ireland) 2006

2.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(**4**) are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(1) (interpretation)—

(a) after the definition of "maximum rent (LHA)"(**5**) insert—

""member of a couple who cannot share a bedroom" means a member of a couple—

(a) who is in receipt of—

(i) attendance allowance at the higher rate in accordance with section 65(3) of the Act;

(ii) the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act;

(iii) the daily living component of personal independence payment in accordance with Article 83 of the 2015 Order; or

(iv) armed forces independence payment; and

(b) whom the relevant authority is satisfied is, by virtue of his or her disability, not reasonably able to share a bedroom with the other member of the couple;";

(b) in the definition of "person who requires overnight care"(**6**), in paragraph (a)(iii), after "provided" insert "or, where P is a child, the claimant has provided,";".

(c) after paragraph (7) insert—

"(8) For the purposes of these Regulations, reference to a member of a couple who can share a bedroom is to a member of a couple where the other member of the couple is a member of a couple who cannot share a bedroom.".

(3) In regulation B14(**7**) (determination of a maximum rent (social sector))—

(a) in paragraph (5)—

(i) before sub-paragraph (a) insert—

"(za) a member of a couple who cannot share a bedroom;

(zb) a member of a couple who can share a bedroom;";

(ii) in sub-paragraph (a), omit "(within the meaning of Part VII of the Act)";

(b) in paragraph (6), for sub-paragraph (a) substitute—

"(a) one or more relevant persons in paragraph (9)(a), (b) or (e) is a person who requires overnight care;

(ab) one or more relevant persons in paragraph (9)(c) or (d) is a person who requires overnight care; or";

(c) in paragraph (7), in sub-paragraph (b), for "a sub-paragraph of paragraph (6)" substitute "paragraph (6)(b)";

(d) in paragraph (9), after sub-paragraph (d) insert—

"(e) for the purposes of paragraph (6)(a)—

(**4**) S,R. 2006 No. 405; relevant amending Regulations are S.R. 2008 No. 101, S.R. 2011 No. 51, S.I. 2013/3021, S.R. 2016 No. 228 and S.R. 2016 No. 326

(**5**) Definition of "maximum rent (LHA)" was inserted by regulation 2(2)(f) of S.R. 2008 No. 101

(**6**) Definition of "person who requires overnight care" was inserted by regulation 2(2)(a) of S.R. 2011 No. 51 and amended by Article 26(2)(c)(ii) of S.I. 2013/3021 and regulation 30(2)(c)(iii) of S.R. 2016 No. 228

(**7**) Regulation B14 was inserted by regulation 5(7) of S.R. 2016 No. 326

(i) a person (other than the claimant, the claimant's partner, P or P's partner) who occupies the claimant's dwelling as their home;

(ii) a child or young person in respect of whom a relevant person under sub-paragraphs (a) to (e)(i) is a qualifying parent or carer.".

(4) In regulation 14D(**8**) (determination of maximum rent (LHA))—

(a) in paragraph (3)(**9**)—

(i) before sub-paragraph (a) insert—

"(za) a member of couple who cannot share a bedroom;

(zb) a member of a couple who can share a bedroom;";

(ii) in sub-paragraph (ba)(**10**) omit "provided that there is a bedroom in the dwelling occupied as the home that is additional to those to which the claimant would be entitled if the child were able to share a bedroom";

(iii) after sub-paragraph (e)—

"but the claimant is only entitled to a bedroom in respect of a child who cannot share a bedroom or a member of a couple who cannot share a bedroom if there is a bedroom in the dwelling occupied as the home that is additional to those to which the claimant would be entitled if the child or the member of the couple were able to share a bedroom.";

(b) in paragraph (3A)(**11**), for sub-paragraph (a) substitute—

"(a) one or more of the following persons is a person who requires overnight care—

(i) the claimant;

(ii) the claimant's partner;

(iii) a person (other than the claimant or the claimant's partner) who occupies the claimant's dwelling as their home;

(iv) a child or young person in respect of whom the claimant or the claimant's partner is a qualifying parent or carer; or".

(5) In Part IV of Schedule 2 (size criteria)—

(a) in paragraph 10(**12**) before sub-paragraph (a) insert–

"(za) a member of a couple who cannot share a bedroom;

(zb) a member of a couple who can share a bedroom;";

(b) in sub-paragraph (ba)(**13**) omit "provided that there is a bedroom in the dwelling occupied as the home that is additional to those to which the claimant would be entitled if the child were able to share a bedroom";

(c) after sub-paragraph (e)—

"but the claimant is only entitled to a bedroom in respect of a child who cannot share a bedroom or a member of a couple who cannot share a bedroom if there is a bedroom in the dwelling occupied as the home that is additional to those to which the

(**8**) Regulations 14 to14F were substituted for regulation 14 by regulation 2(7) of S.R. 2008 No. 101
(**9**) Paragraph (3) was amended regulation 2(5)(b) of S.R. 2011 No. 51 and regulation 3(3)(b) of S.R. 2016 No. 326
(**10**) Sub-paragraph (ba) was inserted by regulation 3(3)(b)(i) of S.R. 2016 No. 326
(**11**) Paragraph (3A) was inserted by regulation 4(3)(c) of S.R. 2016 No.326
(**12**) Paragraph 10 was amended by regulation 3(5)(a) of S.R. 2016 No. 326
(**13**) Sub-paragraph (ba) was inserted by regulation 3(5)(a) of S.R. 2016 No. 326

claimant would be entitled if the child or the member of the couple were able to share a bedroom.";

(d) for paragraph 10A(**14**) for sub-paragraph (a) substitute—

"(a) one or more of the following persons is stated as being a person who requires overnight care—

(i) the tenant;

(ii) the tenant's partner;

(iii) a person (other than the tenant or the tenant's partner) who occupies the dwelling as their home;

(iv) any child or young person in respect of whom the tenant or the tenant's partner is a qualifying parent or carer; or"

(6) In Schedule 3 (excluded tenancies), in paragraph 2(3)—

(a) for paragraph (f) substitute—

"(f) any person mentioned in paragraph 10A of Schedule 2 becomes or ceases to be a person who requires overnight care where that affects the size criteria, as set out in Schedule 2, applicable in the claimant's case;";

(b) in paragraph (h)(**15**) after "child who cannot share a bedroom" insert "or a member of a couple who cannot share a bedroom".

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006

3.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(**16**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(1) (interpretation)—

(a) after the definition of "maximum rent (LHA)"(**17**) insert—

""member of a couple who cannot share a bedroom" means a member of a couple—

(a) who is in receipt of —

(i) attendance allowance at the higher rate in accordance with section 65(3) of the Act;

(ii) the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act;

(iii) the daily living component of personal independence payment in accordance with Article 83 of the 2015 Order; or

(iv) armed forces independence payment; and

(b) whom the relevant authority is satisfied is, by virtue of his or her disability, not reasonably able to share a bedroom with the other member of the couple;";

(**14**) Paragraph 10A of Schedule 2 was substituted by regulation 3(5)(b) of S.R. 2016 No. 326
(**15**) Sub-paragraph (h) was inserted by regulation 3(6)(a) of S.R. 2016 No. 326
(**16**) S.R. 2006 No. 406; relevant amending Regulations are S.R. 2008 No. 102, S.R. 2011 No. 51, S.I. 2013/3021, S.R. 2016 No. 228 and S.R. 2016 No. 326
(**17**) Definition of "maximum rent (LHA)" was inserted by regulation 2(2)(f) of S.R. 2008 No. 102