STATUTORY RULES OF NORTHERN IRELAND

2016 No. 375

SOCIAL SECURITY

The Benefit Cap (Housing Benefit and Universal Credit) (Amendment) Regulations (Northern Ireland) 2016

Made - - - -	*13th October 2016*
Laid before Parliament	*17th October 2016*
Coming into operation	*7th November 2016*

The Secretary of State makes the following Regulations in exercise of the powers conferred by Articles 5, 101(1), (4)(a), (c), and (g), (5), (5B) and (7) of the Welfare Reform (Northern Ireland) Order 2015(**1**), Article 22 of the Welfare Reform and Work (Northern Ireland) Order 2016(**2**) and section 60(1) and (2)(a) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**3**).

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(**4**).

Citation and commencement

1.—(1) These Regulations may be cited as the Benefit Cap (Housing Benefit and Universal Credit) (Amendment) Regulations (Northern Ireland) 2016.

(2) This regulation and regulations 2, 4, and 6 come into operation on 7th November 2016.

(3) Regulation 3 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) Regulation 5 comes into operation immediately after the coming into operation of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016(**5**).

(**1**) S.I. 2015/2006 (N.I. 1) Article 101(5) was substituted and Article 101(5B) was inserted by Article 5(2) of the Welfare Reform and Work (Northern Ireland) Order 2016. Articles 5 and 101(7) are interpretation provisions and are cited for the meaning of "prescribed" and "regulations" and "couple", "single person" and "welfare benefit" respectively. Article 101(7) was also amended by Article 5(4) of the Welfare Reform and Work (Northern Ireland) Order 2016 but the amendments are not relevant to this instrument.

(**2**) S.I. 2016/999 (N.I. 1).

(**3**) 2000 c. 4 (N.I.)

(**4**) Article 4(1)(a) of S.I. 2015/2006 (N.I. 1) was amended by Article 4 of the Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999 (N.I. 1)).

(**5**) S.R. 2016 No. 226.

Amendment of the Housing Benefit Regulations (Northern Ireland) 2006

2.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(**6**) are amended in accordance with paragraphs (2) to (5).

(2) For regulation 73B (determination of whether a benefit cap applies) substitute—

"**Determinations**

73B.—(1) A relevant authority may make a determination as to whether the benefit cap applies or whether to change the amount of any reduction made in accordance with regulation 73D (reduction of housing benefit) but a relevant authority is not required to do so unless paragraph (2) applies.

(2) This paragraph applies where a relevant authority receives notification from the Department that—

(a) the benefit cap may apply;

(b) there has been a change in the amount of a welfare benefit to which the claimant is entitled; or

(c) there has been a change to the relevant amount which may affect the amount of housing benefit to which a claimant is entitled.".

(3) After regulation 73C (manner of calculating the amount of welfare benefits) insert—

"**Determination of the relevant amount**

73CA.—(1) The relevant amount is determined by dividing the applicable annual limit by 52 and rounding that amount by disregarding any amount of less than half a penny and treating any amount of half a penny or more as a whole penny.

(2) The applicable annual limit is—

(a) £13,400 in the case of single claimants;

(b) £20,000 in the case of all other claimants.".

(4) In regulation 73F (exception to the benefit cap: receipt of specified benefit) for paragraph (1)(h) substitute—

"(h) the claimant, the claimant's partner, or a young person for whom the claimant or the claimant's partner is responsible, is entitled to a carer's allowance under section 70 of the Act;

(ha) the claimant, the claimant's partner or a young person for whom the claimant or the claimant's partner is responsible, is entitled to a guardian's allowance under section 77 of the Act.".

(5) In regulation 73G (interpretation)—

(a) in the definition of "relevant amount", for the words from "is" to the end substitute "means the amount determined in accordance with regulation 73CA"; and

(b) omit the definition of "welfare benefit".

Amendments to the Universal Credit Regulations (Northern Ireland) 2016

3.—(1) The Universal Credit Regulations (Northern Ireland) 2016(**7**) are amended in accordance with paragraphs (2) to (6).

(**6**) S.R. 2006 No. 405. Regulations 73B, 73C, 73F, and 73G were inserted by S.R. 2016 No. 55.
(**7**) S.R. 2016 No. 216

(2) In regulation 79 (circumstances where the benefit cap applies)—

(a) in paragraph (1) after "relevant amount" insert "determined under regulation 80A (relevant amount)"; and

(b) omit paragraphs (3) and (4).

(3) After regulation 80(2) (manner of determining total entitlement to welfare benefits) insert—

"(2A) Where the welfare benefit is housing benefit under section 129 of the Contributions and Benefits Act, the amount to be used is nil.".

(4) After regulation 80 insert—

"**Relevant amount**

80A.—(1) The relevant amount is determined by dividing the applicable annual limit by 12.

(2) The applicable annual limit is—

(a) £13,400 for a single claimant who is not responsible for a child or qualifying young person;

(b) £20,000 for—

(i) joint claimants;

(ii) a single claimant who is responsible for a child or qualifying young person.".

(5) In regulation 81(3) (reduction of universal credit) for "applicable under regulation 79(3) (circumstances where the benefit cap applies)" substitute "determined under regulation 80A (relevant amount)".

(6) In regulation 83(1)(j) (exceptions – entitlement or receipt of certain benefits) after "a claimant" insert ", or a qualifying young person for whom a claimant is responsible,".

Amendment to the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001

4. In regulation 8 of the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(**8**), in paragraph (14A)(b) for "regulation 73G of the Housing Benefit Regulations (interpretation)" substitute "Article 101(7) of the Welfare Reform (Northern Ireland) Order 2015 (benefit cap)".

Amendments to the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016

5. In regulation 7 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016(**9**) (treatment of ongoing entitlement to certain benefits: benefit cap)—

(a) in paragraph (1)(a) for "regulation 79(4) of the Universal Credit Regulations (circumstances where the benefit cap applies)" substitute "Article 101(7) of the Order (benefit cap)"; and

(b) in paragraph (2) for "paragraph (4) of that regulation" substitute "Article 101(7) of the Order".

(**8**) S.R. 2001 No. 213. Paragraph (14A) was inserted by regulation 2(4) of S.R. 2016 No. 55

(**9**) S.R. 2016 No. 226.