***Changes to legislation:*** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Housing Benefit (Amendment) Regulations (Northern Ireland) 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

# 2016 No. 258

# SOCIAL SECURITY

## The Housing Benefit (Amendment) Regulations (Northern Ireland) 2016

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| *Made - - - -* | *30th June 2016* |
| *Laid before Parliament* | *4th July 2016* |
| *Coming into operation* | *2nd January 2017* |

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 (2)(h), and 171(1), (3), (4) and (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 [F1], and Article 74(3) and (6) of the Social Security (Northern Ireland) Order 1998 [F2].

These powers are exercisable by the Secretary of State by virtue of Article 4(1)(b) of the Welfare Reform (Northern Ireland) Order 2015 [F3].

**F1** 1992 c. 7; section 129A was inserted by section 30(2) of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)) 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"
**F2** S.I 1998/1506 (N.I. 10)
**F3** S.I. 2015/2006 (N.I. 1)

### Citation, commencement and interpretation

**1.**—(1) These Regulations may be cited as the Housing Benefit (Amendment) Regulations (Northern Ireland) 2016 and come into operation on 2nd January 2017.

(2) The Interpretation Act (Northern Ireland) 1954 [F4] shall apply to these Regulations as it applies to an Act of the Assembly.

(3) In these Regulations—

"the Housing Benefit Regulations" means the Housing Benefit Regulations (Northern Ireland) 2006 [F5]; and

"the Housing Benefit (State Pension Credit) Regulations" means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 [F6].

**F4** 1954 c. 33 (N.I.)
**F5** S,R. 2006 No. 405; relevant amending Regulations are S.R. 2008 No. 101, S.R. 2008 No. 428 and S.R. 2011 No. 51
**F6** S.R. 2006 No. 406; relevant amending Regulations are S.R. 2008 No. 102, S.R. 2008 No. 285, S.R. 2008 No. 378, S.R. 2008 No. 428 and S.R. 2011 No. 51

**Amendment of the Housing Benefit Regulations relating to qualifying parents or carers, parents of armed forces personnel who are away from home on operations or who have a child who cannot share a bedroom**

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

(2) In regulation 2(1) [F7] (interpretation)—

(a) after the definition of "child tax credit" insert—

""child who cannot share a bedroom" means a child—

(a) who is entitled to the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act; and

(b) who the relevant authority is satisfied is, by virtue of his or her disability, not reasonably able to share a bedroom with another child;";

(b) after the definition of "maximum rent (LHA)" insert—

""member of the armed forces away on operations" means a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006 [F8]) who is absent, while on operations, from the dwelling usually occupied as their home;";

(c) after the definition of "qualifying income-related benefit" insert—

""qualifying parent or carer" means a person who has a bedroom in the dwelling they occupy as their home additional to those used by the persons who occupy the dwelling as their home and who—

(a) has a child or qualifying young person placed with them as mentioned in regulation 19(3) who by virtue of that provision is not treated as occupying their dwelling; or

(b) has been approved as a foster parent under regulation 3 of the Foster Placement (Children) Regulations (Northern Ireland) 1996 [F9] but does not have a child or qualifying young person placed with them and has not had a child or qualifying young person placed with them for a period which does not exceed 52 weeks;";

(d) In the definition of "young individual"—

(i) at the end of paragraph (d) omit "or";

(ii) after paragraph (e) add—

"or

(f) who is a qualifying parent or carer;".

(3) In regulation 14D [F10] (determination of a maximum rent (LHA))—

(a) in paragraph (2)(c) [F11] for "paragraph (3)" substitute " paragraphs (3) to (3B) ";

(b) in paragraph (3) [F12]

(i) after sub-paragraph (b) insert—

"(ba) a child who cannot share a bedroom 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;";

(ii) after sub-paragraph (e) omit "and one additional bedroom in any case where the claimant or the claimant's partner is a person who requires overnight care (or in any case where both of them are).";

(c) after paragraph (3) add—

"(3A) The claimant is entitled to one additional bedroom in any case where—

(a) the claimant or the claimant's partner is (or each of them is) a person who requires overnight care; or

(b) the claimant or the claimant's partner is (or each of them is) a qualifying parent or carer.

(3B) The claimant is entitled to two additional bedrooms where paragraph (3A)(a) and (b) both apply.";

(d) in paragraph (10) for the definition of "occupiers" substitute—

""occupiers" means—

(a) the persons whom the relevant authority is satisfied occupy as their home the dwelling to which the claim or award relates except for any joint tenant who is not a member of the claimant's household; and

(b) any member of the armed forces away on operations who—

(i) is the son, daughter, step-son or step-daughter of the claimant or the claimant's partner;

(ii) was the claimant's non-dependant before they became a member of the armed forces away on operations; and

(iii) intends to resume occupying the dwelling as their home when they cease to be a member of the armed forces away on operations;".

(4) In regulation 72 [F13] (non-dependant deductions)—

(i) at the end of paragraph 7(e) omit "or";

(ii) after paragraph (7)(f) add—

"; or

(g) he is not residing with the claimant because he is a member of the armed forces away on operations.".

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

(a) in paragraph 10 after sub-paragraph (b) insert–

"(ba) a child who cannot share a bedroom 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;"; and

(b) for paragraph 10A [F14] substitute—

"**10A.** One additional bedroom is allowed where on the application for the determination—

(a) the tenant or tenant's partner is (or both of them are) stated as being a person who requires overnight care; or

(b) the tenant or tenant's partner is (or both of them are) stated as being a qualifying parent or carer.

**10B.** Two additional bedrooms are allowed where sub-paragraphs (a) and (b) of paragraph 10A both apply.".

(6) In paragraph 2 of Schedule 3 (excluded tenancies)—

(a) after sub-paragraph (3)(f) [F15] add—

"(g) the claimant or the claimant's partner becomes, or ceases to be, a qualifying parent or carer where that affects the size criteria, as set out in Part IV of Schedule 2, applicable in the claimant's case; or

(h) an occupier becomes or ceases to be a child who cannot share a bedroom where that affects the size criteria, as set out in Part IV of Schedule 2, applicable in the claimant's case.".

(b) after sub-paragraph (3) add—

"(4) For the purposes of sub-paragraph (3)(d)(iii) it does not amount to a change in the composition of the household where a son, daughter, step-son or step-daughter of the claimant or the claimant's partner who is the claimant's non-dependant ceases to occupy the dwelling as their home because they become a member of the armed forces away on operations, or subsequently resumes occupying the dwelling as their home on ceasing to be a member of the armed forces away on operations.".

**F7** The definition of "maximum rent (LHA)" was inserted by regulation 2(2)(f) of S.R. 2008 No. 101 and the definition of "qualifying income-related benefit" was amended by regulation 3(2)(a)(x) of S.R. 2008 No. 378 and the definition of "young individual" was amended by regulation 2(2)(b)(i) and (ii) of S.R. 2011 No. 51 and regulation 2(2)(a)(i) to (ii) of S.R.2011 No. 293

**F8** 2006 c. 52

**F9** S.R. 1996 No. 467

**F10** Regulations 14 to14F were substituted for regulation 14 by regulation 2(7) of S.R. 2008 No. 101

**F11** Paragraph (2)(c) was amended by regulation 2(5)(a) of S.R. 2011 No. 51

**F12** Paragraph (3) was amended by regulation 2(5)(b) of S.R. 2011 No. 51

**F13** Paragraph (7) was amended by regulation 6(5) of S.R. 2008 No. 428

**F14** Paragraph 10A of Schedule 2 was inserted by S.R. 2011 No. 51

**F15** Head (f) was added by regulation 2(8) of S.R. 2011 No. 51

**Amendment of the Housing Benefit (State Pension Credit) Regulations relating to qualifying parents or carers, parents of armed forces personnel who are away from home on operations or who have a child who cannot share a bedroom**

**3.**—(1) The Housing Benefit (State Pension Credit) Regulations are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(1) [F16] (interpretation)—

(a) after the definition of "child tax credit" insert—

""child who cannot share a bedroom" means a child—

(a) who is entitled to the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act; and

(b) who the relevant authority is satisfied is, by virtue of his or her disability, not reasonably able to share a bedroom with another child;";

(b) after the definition of "maximum rent (LHA)" insert—

""member of the armed forces away on operations" means a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006 [F17]) who is absent, while on operations, from the dwelling usually occupied as their home;";

(c) after the definition of "qualifying income-related benefit" insert—

""qualifying parent or carer" means a person who has a bedroom in the dwelling they occupy as their home additional to those used by the persons who occupy the dwelling as their home and who—

(a) has a child or qualifying young person placed with them as mentioned in regulation 19(3) who by virtue of that provision is not treated as occupying their dwelling; or

(b) has been approved as a foster parent under regulation 3 of the Foster Placement (Children) Regulations (Northern Ireland) 1996 [F18] but does not have a child or qualifying young person placed with them and has not had a child or qualifying young person placed with them for a period which does not exceed 52 weeks;".

(3) In regulation 14D [F19] (determination of a maximum rent (LHA))—

(a) in paragraph (2)(c) [F20] for "paragraph (3)" substitute " paragraphs (3) to (3B) ";

(b) in paragraph (3) [F21]

(i) after sub-paragraph (b) insert—

"(ba) a child who cannot share a bedroom 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;";

(ii) after sub-paragraph (e) omit "and one additional bedroom in any case where the claimant or the claimant's partner is a person who requires overnight care (or in any case where both of them are).".

(c) after paragraph (3) add—

"(3A) The claimant is entitled to one additional bedroom in any case where—

(a) the claimant or the claimant's partner is (or each of them is) a person who requires overnight care; or

(b) the claimant or the claimant's partner is (or each of them is) a qualifying parent or carer.

(3B) The claimant is entitled to two additional bedrooms where paragraph (3A)(a) and (b) both apply.";

(d) in paragraph (10) for the definition of "occupiers" substitute—

""occupiers" means—

(a) the persons whom the relevant authority is satisfied occupy as their home the dwelling to which the claim or award relates except for any joint tenant who is not a member of the claimant's household; and