STATUTORY RULES OF NORTHERN IRELAND

2012 No. 380

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Habitual Residence) (Amendment) Regulations (Northern Ireland) 2012

Made - - - -	*17th October 2012*
Coming into operation	*8th November 2012*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 131(1) and (2), 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), Articles 6(5) and (12) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(**2**), and now vested in it(**3**), sections 1(5)(a) and 19(1), (2)(a) and (3) of the State Pension Credit Act (Northern Ireland) 2002(**4**) and sections 4(3) and 25(2) of the Welfare Reform Act (Northern Ireland) 2007(**5**).

Regulations 5 and 6 are made with the consent of the Department of Finance and Personnel(**6**).

The Social Security Advisory Committee has agreed that proposals in respect of regulations 5 and 6 should not be referred to it(**7**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Habitual Residence) (Amendment) Regulations (Northern Ireland) 2012 and shall come into operation on 8th November 2012.

(2) The Interpretation Act (Northern Ireland) 1954(**8**) shall apply to these Regulations as it applies to an Act of the Assembly.

(**1**) 1992 c. 7; section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
(**2**) S.I. 1995/2705 (N.I. 15); Article 36(2)(a) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
(**3**) *See* Article 8(b) of S.R. 1999 No. 481
(**4**) 2002 c. 14 (N.I.)
(**5**) 2007 c. 2 (N.I.)
(**6**) *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
(**7**) *See* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
(**8**) 1954 c. 33 (N.I.)

Amendment of the Income Support (General) Regulations

2. In regulation 21AA(3) of the Income Support (General) Regulations (Northern Ireland) 1987(**9**) (special cases: supplemental – persons from abroad)—

(a) after sub-paragraph (b) insert—

"(bb) regulation 15A(1) of those Regulations(**10**), but only in a case where the right exists under that regulation because the claimant satisfies the criteria in regulation 15A(4A) of those Regulations(**11**);";

(b) at the end of sub-paragraph (c) omit "or";

(c) at the end of sub-paragraph (d) add "; or" and the following sub-paragraph—

"(e) Article 20 of the Treaty on the Functioning of the European Union(**12**) (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of the substance of their rights as a European Union citizen).".

Amendment of the Jobseeker's Allowance Regulations

3. In regulation 85A(3) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**13**) (special cases: supplemental – persons from abroad)—

(a) after sub-paragraph (a) omit "or" and insert the following sub-paragraph—

"(aa) regulation 15A(1) of those Regulations, but only in a case where the right exists under that regulation because the claimant satisfies the criteria in regulation 15A(4A) of those Regulations;";

(b) at the end of sub-paragraph (b) add "; or" and the following sub-paragraph—

"(c) Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of the substance of their rights as a European Union citizen).".

Amendment of the State Pension Credit Regulations

4. In regulation 2(3) of the State Pension Credit Regulations (Northern Ireland) 2003(**14**) (persons not in Northern Ireland)—

(a) after sub-paragraph (b) insert—

"(bb) regulation 15A(1) of those Regulations, but only in a case where the right exists under that regulation because the claimant satisfies the criteria in regulation 15A(4A) of those Regulations;";

(b) at the end of sub-paragraph (c) omit "or";

(c) at the end of sub-paragraph (d) add "; or" and the following sub-paragraph—

(**9**) S.R. 1987 No. 459; regulation 21AA was inserted by regulation 2(3) of S.R. 2006 No. 178 and amended by regulation 2 of S.R. 2006 No. 379, regulation 2 of S.R. 2006 No. 523, regulation 2 of S.R. 2009 No. 68 and regulation 7(3) of S.R. 2011 No. 357

(**10**) Regulation 15A was inserted by paragraph 9 of Schedule 1 to S.I. 2012/1547 and paragraph (1) was amended by paragraph 2 of the Schedule to S.I. 2012/2560

(**11**) Regulation 15A(4A) was inserted by paragraph 2 of the Schedule to S.I. 2012/2560

(**12**) OJ C 83/56, 30.3.2010

(**13**) S.R. 1996 No. 198; regulation 85A was inserted by regulation 4(3) of S.R. 2006 No. 178 and amended by regulation 4 of S.R. 2006 No. 379, regulation 3 of S.R. 2006 No. 523, regulation 3 of S.R. 2009 No. 68 and regulation 10(5) of S.R. 2011 No. 357

(**14**) S.R. 2003 No. 28; regulation 2 was substituted by regulation 5 of S.R. 2006 No. 178 and amended by regulation 5 of S.R. 2006 No. 379, regulation 4 of S.R. 2006 No. 523, regulation 4 of S.R. 2009 No. 68 and regulation 14(3) of S.R. 2011 No. 357