STATUTORY RULES OF NORTHERN IRELAND

2011 No. 136

HOUSING; RATES; SOCIAL SECURITY

The Housing Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 2011

Made - - - - 22nd March 2011

Coming into operation in accordance with regulation 1

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(d), 131(1), 132(4)(b), 133(2)(h) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 5(1)(a), (b), (k) and (q), 105A(1A) to (1E), 106(1A) to (1D) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(**2**), Article 74(3), (5) and (6) of the Social Security (Northern Ireland) Order 1998(**3**), and now vested in it(**4**), and paragraphs 6(7) and 20(1) and (3) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**5**).

Regulations 4(2) and (7) to (9) and 5(2), (7) and (8) 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 2, 3, 4(2) to (5) and (7) to (9), 5(2) to (5), (7) and (8) and 6 should not be referred to it (**7**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 2011 and, subject to paragraph (2), shall come into operation on 1st May 2011.

(**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 section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(**2**) 1992 c. 8; section 105A was inserted by Article 12 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11)) and subsections (1A) to (1E) were inserted by section 15(1)(b) of the Social Security Fraud Act (Northern Ireland) 2001 (c. 17 (N.I.)); in section 106 subsections (1A) to (1F) were substituted for subsection (1A) by section 15(2) of that Act and in section 165 subsection (1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and subsection (6) was amended by Schedule 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))

(**3**) S.I. 1998 No. 1506 (N.I. 10)

(**4**) *See* Article 8(b) of S.R. 1999 No. 481

(**5**) 2000 c. 4 (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

(2) Regulations 4(7)(a) and (9)(b) and 5(7) shall come into operation—

(a) in relation to any case where rent is payable at intervals of a week or any multiple of a week, on 4th April 2011; and

(b) in relation to any other case, on 1st April 2011.

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

Amendment of the Housing Benefit (Decisions and Appeals) Regulations

2. In regulation 10(1)(b) of the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(**9**) (notice of a decision against which an appeal lies) after "he may" insert ", within one month of the date of notification of that decision (or, if the decision was notified before 1st May 2011, before 1st June 2011),".

Amendment of the Social Security (Notification of Change of Circumstances) Regulations

3. In regulation 4 of the Social Security (Notification of Change of Circumstances) Regulations (Northern Ireland) 2001(**10**) (change affecting housing benefit)—

(a) for paragraph (1) substitute—

"(1) Subject to paragraph (1A), where the benefit affected by the change of circumstances is housing benefit, notice must be given to the relevant authority at the designated office—

(a) in writing;

(b) by telephone—

(i) where the relevant authority has published a telephone number for that purpose or for the purposes of making a claim unless the authority determines that in any particular case or class of case notification may not be given by telephone, or

(ii) in any case or class of case where the relevant authority determines that notice may be given by telephone; or

(c) by any other means which the relevant authority agrees to accept in any particular case.

(1A) Notice may be given to the appropriate office by telephone where all the following conditions are met—

(a) the claimant or the claimant's partner is in receipt of income support or a jobseeker's allowance;

(b) the change of circumstances is that the claimant or the claimant's partner starts employment;

(c) as a result of the change, either entitlement to housing benefit will end, or the amount of benefit will be reduced; and

(d) a telephone number has been provided for that purpose."; and

(b) in paragraph (2) for ""designated office" and relevant authority"" substitute ""appropriate office"(**11**), "claimant", "designated office" and "relevant authority"".

(**8**) 1954 c. 33 (N.I.)
(**9**) S.R. 2001 No. 213
(**10**) S.R. 2001 No. 420; regulation 4 was amended by paragraph 9 of Schedule 2 to S.R. 2006 No. 407
(**11**) The definition of "appropriate office" was amended by regulation 3(2)(a)(ii) or, as the case may be, regulation 4(2)(a)(ii) of S.R. 2008 No. 378

Amendment of the Housing Benefit Regulations

4.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(**12**) are amended in accordance with paragraphs (2) to (9).

(2) In regulation 19(3) (circumstances in which a person is to be treated as being or not being a member of the household) after "as a member of the claimant's household" insert ", nor as occupying the claimant's dwelling,".

(3) In regulation 81 (time and manner in which claims are to be made) for paragraph (12)(**13**) substitute—

"(12) Where a claimant ("C")—

(a) makes a claim which includes (or which C subsequently requests should include) a period before the claim is made; and

(b) from a day in that period, up to the date when C made the claim (or subsequently requested that the claim should include a past period), C had continuous good cause for failing to make a claim (or request that the claim should include that period),

the claim is to be treated as made on the date determined in accordance with paragraph (12A).

(12A) That date is the latest of—

(a) the first day from which C had continuous good cause;

(b) the day 6 months before the date the claim was made;

(c) the day 6 months before the date when C requested that the claim should include a past period.".

(4) In regulation 84(1)(**14**) (duty to notify changes of circumstances) for sub-paragraphs (a) and (b) substitute—

"(a) in writing;

(b) by telephone—

(i) where the relevant authority has published a telephone number for that purpose or for the purposes of regulation 81 unless the authority determines that in any particular case or class of case notification may not be given by telephone, or

(ii) in any case or class of case where the relevant authority determines that notice may be given by telephone; or

(c) by any other means which the relevant authority agrees to accept in any particular case.".

(5) In regulation 86(2) (notification of decisions) after "signed by him," insert "within one month of the date of the notification of that decision (or, if the decision was notified before 1st May 2011, before 1st June 2011)".

(6) In regulation 93(2) (circumstances in which payment may be made to a landlord) omit "by sending to the claimant an instrument of payment payable".

(7) In Schedule 4 (applicable amounts)—

(a) in paragraph 3 (family premium) for sub-paragraph (2) substitute—

"(2) The amounts specified in sub-paragraph (1)(a) and (b) shall be increased by £10.50 where the claimant or the claimant's partner is in receipt of child tax credit and

(**12**) S.R. 2006 No. 405; relevant amending Rules are S.R. 2006 No. 462, S.R. 2008 Nos. 410 and 498, S.R. 2009 No. 338, S.R. 2010 No. 8 and S.R. 2011 No. 119

(**13**) Paragraph (12) was amended by regulation 4 of S.R. 2008 No. 410

(**14**) Regulation 84(1) was amended by regulation 2(4) of S.R. 2006 No. 462

the family element includes the amount in regulation 7(3)(a) of the Child Tax Credit Regulations 2002(**15**).”; and

(b) in paragraph 20(9)(**16**) (amounts of premiums specified in Part III) in the first column omit “where the conditions in paragraph 15 are satisfied”.

(8) In Schedule 5 (sums to be disregarded in the calculation of earnings) in paragraph 17(3)(a) for “paragraphs 3 to 10” substitute “paragraphs 3 to 10A”.

(9) In Schedule 6 (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 15 in sub-paragraphs (ba) and (bc)(**17**) after paragraph (ii) insert—

“(iia) the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010(**18**);”;

(b) in paragraph 26—

(i) in sub-paragraph (1)(**19**) omit “to the extent specified in sub-paragraph (3)”, and

(ii) omit sub-paragraph (3); and

(c) in paragraph 49A(2)(**20**) in the definition of “liable relative” for “Income Support (General) Regulations (Northern Ireland) 1987” substitute “Income Support Regulations”.

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

5.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(**21**) are amended in accordance with paragraphs (2) to (8).

(2) In regulation 19(3) (circumstances in which a person is to be treated as being or not being a member of the household) after “as a member of the claimant’s household” insert “, nor as occupying the claimant’s dwelling,”.

(3) In regulation 62 (time and manner in which claims are to be made)—

(a) in paragraph (1)(**22**) at the beginning insert “Subject to paragraph (1A),”; and

(b) after paragraph (1) insert—

“(1A) In any case where paragraph (6)(a) applies, paragraph (1) does not entitle a claimant to claim housing benefit in respect of any day earlier than 3 months before the date on which the claim for state pension credit is made (or treated as made by virtue of any provision of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**23**)).”.

(4) In regulation 65(1)(**24**) (duty to notify changes of circumstances) for sub-paragraphs (a) and (b) substitute—

“(a) in writing;

(b) by telephone—

(**15**) S.I. 2002/2007
(**16**) Paragraph 20(9) was amended by Schedule 6 to S.R. 2011 No. 119
(**17**) Sub-paragraphs (ba) to (bc) were inserted by regulation 2 of S.R. 2010 No. 8
(**18**) Royal Warrant made on 16th February 2010
(**19**) Sub-paragraph (1) was amended by regulation 5(5)(b) of S.R. 2008 No. 498 and regulation 6(6)(c) of S.R. 2009 No. 338
(**20**) Paragraph 49A was substituted by regulation 6(6)(d) of S.R. 2009 No. 338
(**21**) S.R. 2006 No. 406; relevant amending Regulations are S.R. 2006 No. 462, S.R. 2008 No. 410 and S.R. 2010 No. 8
(**22**) Paragraph (1) was amended by regulation 5(a) of S.R. 2008 No. 410
(**23**) S.R. 1987 No. 465
(**24**) Regulation 65(1) was amended by regulation 3(4) of S.R. 2006 No. 462