STATUTORY RULES OF NORTHERN IRELAND

2005 No. 458

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Residential Care Homes, Nursing Homes and Independent Hospitals) Regulations (Northern Ireland) 2005

Made - - - -	*20th October 2005*
Coming into operation	*14th November 2005*

The Department for Social Development, in exercise of the powers conferred by sections 67(2), 72(8), 122(1)(a) and (d), 129(2) and (4), 131(1) and (2), 132(2), (3) and (4), 132A(2), (3) and (4), 133(2)(h) and (i), 134(1)(a) and (2) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 1(1C), 5(1)(q) and (5) and 165(4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(**2**), Articles 6(5) and (12), 14(1), (2) and (4)(a), 22(4) and 22B(4) of and paragraphs 1(2)(b), 8, 8A, 10(1) and (2) and 12 of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(**3**) and now vested in it(**4**), sections 6(4)(c) and 7(4)(c) of the Social Security Fraud Act (Northern Ireland) 2001(**5**) and sections 2(3)(b), 6(1), 15(2) and (6)(b), 17(2)(a) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(**6**) and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**7**), in so far as regulation 4 and Schedule 2 are concerned, and after agreement by the Social Security Advisory Committee that proposals in respect of that Regulation should not be referred to it(**8**), hereby makes the following Regulations:

(**1**) 1992 c. 7; section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14), section 134(1)(a) was substituted by Article 66(1) of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) 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 1(1C) was inserted by Article 18 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11)) and section 5(5) was inserted by Article 3 of the Housing Benefit (Payment to Third Parties) (Northern Ireland) Order 1996 (S.I. 1996/2597 (N.I. 20))

(**3**) S.I. 1995/2705 (N.I. 15); Article 22B was inserted by paragraph 14 of Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), paragraph 8A of Schedule 1 was inserted by paragraph 16(2) of Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999, paragraph 10(1) of Schedule 1 was substituted by paragraph 16(5) of Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 10(2) of Schedule 1 was amended by paragraph 114 of Schedule 6 to, the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and paragraph 16(6) of Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999

(**4**) *See* Article 8(b) and Part II of Schedule 6 to, S.R. 1999 No. 481

(**5**) 2001 c. 17 (N.I.)

(**6**) 2002 c. 14 (N.I.)

(**7**) *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 and Part II of Schedule 4 to, S.R. 1999 No. 481

(**8**) *See* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Residential Care Homes, Nursing Homes and Independent Hospitals) Regulations (Northern Ireland) 2005 and shall come into operation on 14th November 2005.

(2) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Social Fund (Maternity and Funeral Expenses) (General) Regulations

2. In regulation 2(1A) of the Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987(**10**) (interpretation)—

(a) in sub-paragraph (a) for "residential accommodation, residential care home or nursing home" there shall be substituted "residential care home, nursing home, Abbeyfield Home or independent hospital", and

(b) in sub-paragraph (b) and at the end of paragraph (1A) for "accommodation or home" there shall be substituted "home or hospital".

Amendment of the Income Support (General) Regulations

3. The Income Support (General) Regulations (Northern Ireland) 1987(**11**) shall be amended in accordance with Schedule 1.

Amendment of the Housing Benefit (General) Regulations

4.—(1) The Housing Benefit (General) Regulations (Northern Ireland) 1987(**12**) shall be amended in accordance with Schedule 2.

(2) The amendments made by paragraphs 1(a)(ii), 6(a) and (b) and 8 of Schedule 2 to these Regulations are to the Housing Benefit (General) Regulations (Northern Ireland) 1987 as modified in their application to persons to whom regulation 2 of the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003(**13**) applies.

Amendment of the Social Security (Claims and Payments) Regulations

5.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**14**) shall be amended in accordance with paragraphs (2) and (3).

(2) Regulation 34B(**15**) (transitional provisions for persons in hostels or certain residential accommodation) shall be omitted.

(3) In Schedule 8A(**16**) (deductions from benefits and direct payment to third parties)—

(**9**) 1954 c. 33 (N.I.)
(**10**) S.R. 1987 No. 150; paragraph (1A) was inserted by regulation 2(3) of S.R. 1996 No. 423 and amended by regulation 2(2)(b) of S.R. 1997 No. 155
(**11**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 Nos. 146, 193, 318 and 431, S.R. 1989 Nos. 139 and 395, S.R. 1990 No. 387, S.R. 1991 No. 345, S.R. 1992 No. 403, S.R. 1993 Nos. 149, 165 and 373, S.R. 1994 Nos. 65, 77 and 165, S.R. 1995 Nos. 86 and 301, S.R. 1996 Nos. 93, 199 and 489, S.R. 1997 No. 22, S.R. 1998 Nos. 2 and 81, S.R. 2000 Nos. 74 and 366, S.R. 2001 No. 150, S.R. 2002 No. 132 and S.R. 2003 Nos. 191, 195, 261 and 267
(**12**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1988 No. 314, S.R. 1991 No. 176, S.R. 1993 No. 149, S.R. 1994 No. 65, S.R. 1996 Nos. 93, 111 and 334, S.R. 1998 No. 455, S.R. 1999 No. 372, S.R. 2001 Nos. 150 and 215 and S.R. 2003 No. 197
(**13**) S.R. 2003 No. 197
(**14**) S.R. 1987 No. 465; relevant amending Regulations are S.R. 1989 No.398, S.R. 1991 No. 488, S.R. 1993 No. 149, S.R. 1996 No. 354, S.R. 1999 No. 472, S.R. 2002 No. 132 and S.R. 2003 Nos. 191 and 412
(**15**) Regulation 34B was inserted by regulation 5 of S.R. 1989 No. 398 and amended by Article 9(2) of S.R. 1999 No. 472 (C. 36) and regulation 13 of S.R. 2003 No. 191
(**16**) Schedule 8A was inserted by regulation 2(3) of, and the Schedule to, S.R. 1988 No. 67

(a) in paragraph 1 (interpretation) for the definition of "hostel"(**17**) there shall be substituted the following definition—

""hostel" means an establishment—

(a) in which there is provided for persons generally, or for a class of persons, accommodation, otherwise than in separate and self-contained premises, and either board or facilities of a kind set out in paragraph 4A(1)(d) adequate to the needs of those persons; and—

(b) which is—

(i) managed by or owned by a housing association registered with the Department of the Environment in accordance with Article 124 of the Housing (Northern Ireland) Order 1981(**18**);

(ii) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a government department or public body, or

(iii) managed by a voluntary organisation or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community;

(c) which is not—

(i) a residential care home;

(ii) a nursing home;

(iii) an independent hospital, or

(iv) an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;

(d) in sub-paragraph (b)(iii) a "voluntary organisation" means any association carrying on any activities otherwise than for the purpose of gain by the association or by individual members thereof, but shall not include any public body;

(e) in sub-paragraph (c)—

(i) "independent hospital" has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

(ii) "nursing home" has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 11 of that Order;

(iii) "residential care home" has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 10 of that Order;";

(b) in paragraph 4(**19**) (miscellaneous accommodation costs)—

(i) in sub-paragraph (1)(**20**)—

(**17**) The definition of "hostel" was inserted by regulation 6(7)(a)(ii) of S.R. 1991 No. 488 and amended by paragraph 3(3) of Schedule 2 to, S.R. 1993 No. 149 and regulation 3(2) of S.R. 2002 No. 132

(**18**) S.I. 1981/156 (N.I. 3)

(**19**) Paragraph 4 was substituted by paragraph 2(2) of Schedule 1 to, S.R. 1993 No. 149

(**20**) Sub-paragraph (1) was amended by regulation 8(a)(ii) of S.R. 1989 No. 398, regulation 2(26)(d)(ii) of S.R. 1996 No. 354, Article 9(2) of S.R. 1999 No. 472 (C. 36), regulation 3(3)(a) of S.R. 2002 No. 132 and regulation 2(a) to (d) of S.R. 2003 No. 412

(aa) in head (a) for "in a residential care home or nursing home" there shall be substituted "residing in a residential care home, nursing home, an Abbeyfield Home or an independent hospital";

(bb) in head (b) sub-heads (i) and (ii) shall be omitted;

(ii) in sub-paragraph (2)(**21**) for head (a) there shall be substituted the following head—

"(a) in a case where a beneficiary is not in accommodation as specified in regulation 15(7)(c) of the State Pension Credit Regulations, an amount equal to the award of income support, jobseeker's allowance, or guarantee credit payable to the claimant but excluding an amount, if any, which when added to any other income of the beneficiary as determined in accordance with regulation 28 of the Income Support Regulations, regulation 93 of the Jobseeker's Allowance Regulations or regulation 17 of the State Pension Credit Regulations will equal the amount prescribed in respect of personal expenses in sub-paragraph (2A), and".

Amendment of the Social Fund (Cold Weather Payments) (General) Regulations

6. In regulation 1A of the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988(**22**) (prescribed description of persons), for paragraph (2) there shall be substituted the following paragraphs—

"(2) Paragraph (1)(a), (aa) and (ab) shall not apply to a person who resides in—

(a) a residential care home or a nursing home;

(b) an independent hospital, or

(c) an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society.

(3) In paragraph (2)—

(a) "independent hospital" has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**23**);

(b) "nursing home" has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 11 of that Order;

(c) "residential care home" has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 10 of that Order.".

Amendment of the Social Security (Attendance Allowance) Regulations

7. In regulation 7 of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992(**24**) (persons in certain accommodation other than hospitals)—

(a) in paragraph (5)(c) for "residential homes" there shall be substituted "residential care homes, nursing homes or independent hospitals", and

(b) after paragraph (5) there shall be added the following paragraph—

(**21**) Sub-paragraph (2) was substituted by regulation 2(e) of S.R. 2003 No. 412

(**22**) S.R. 1988 No. 368; regulation 1A was inserted by regulation 2 of S.R. 1991 No. 487 and amended by regulation 3 of S.R. 1996 No. 488, regulation 25(4) to (6) of S.R. 2003 No. 191, regulation 3(2) of S.R. 2003 No. 267 and regulation 2 of S.R. 2004 No. 429

(**23**) S.I. 2003/431 (N.I. 9)

(**24**) S.R. 1992 No. 20; paragraph (5) was amended by regulation 2 of S.R. 2002 No. 31

"(6) In paragraph (5)—

"independent hospital" has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

"nursing home" has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 11 of that Order;

"residential care home" has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 10 of that Order.".

Amendment of the Social Security (Disability Living Allowance) Regulations

8. In regulation 9 of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(**25**) (persons in certain accommodation other than hospitals)—

(a) in paragraph (8)(c) for "residential homes" there shall be substituted "residential care homes, nursing homes or independent hospitals", and

(b) after paragraph (8) there shall be added the following paragraph—

"(9) In paragraph (8)—

"independent hospital" has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

"nursing home" has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 11 of that Order;

"residential care home" has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 10 of that Order.".

Amendment of the Jobseeker's Allowance Regulations

9. The Jobseeker's Allowance Regulations (Northern Ireland) 1996(**26**) shall be amended in accordance with Schedule 3.

Amendment of the Social Fund Winter Fuel Payment Regulations

10. In regulation 1 of the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2000(**27**) (citation, commencement and interpretation)—

(a) in paragraph (2)—

(i) after the definition of "the Income Support Regulations" there shall be inserted the following definition—

""independent hospital" has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;";

(**25**) S.R. 1992 No. 32; paragraph (8) was amended by regulation 3 of S.R. 2002 No. 31
(**26**) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 Nos. 356, 358 and 503, S.R. 1997 No. 22, S.R. 1998 Nos. 2 and 81, S.R. 1999 No. 428 (C. 32), S.R. 2000 Nos. 350 and 366, S.R. 2001 No. 150, S.R. 2002 No. 132 and S.R. 2003 Nos. 195 and 261
(**27**) S.R. 2000 No. 91; relevant amending Regulations are S.R. 2000 No. 321, S.R. 2001 No. 373 and S.R. 2003 No. 267