STATUTORY RULES OF NORTHERN IRELAND

2005 No. 444

HOUSING; RATES

The Housing Benefit (Miscellaneous Amendments No.3) Regulations (Northern Ireland) 2005

Made - - - - 10th October 2005
Coming into operation in accordance with regulation 1(1)

The Department for Social Development, in exercise of the powers conferred by sections 122(1)(d), 129(4), 131(1), 132(3), (4)(a) and (b), 132A(3) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and sections 5(1)(l) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(**2**) and Articles 34(2) and 74(1) of the Social Security (Northern Ireland) Order 1998 (**3**) , and now vested in it(**4**), and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**5**),after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(**6**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Miscellaneous Amendments No. 3) Regulations (Northern Ireland) 2005 and shall come into operation—

(a) in relation to any case where rent is payable at intervals of a whole number of weeks, on 3rd April 2006, and

(b) for all other purposes on 1st April 2006.

(2) In these 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 (N.I.)); section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
(**2**) 1992 c. 8
(**3**) S.I. 1998 No. 1506 (N.I. 10)
(**4**) *See* Article 8(b) of S.R. 1999 No. 481
(**5**) *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
(**6**) *See* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**7**);

"the State Pension Credit Regulations" means the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003(**8**).

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

Amendment of the Housing Benefit Regulations

2.—(1) Subject to paragraph (2) the Housing Benefit Regulations shall be amended in accordance with paragraphs (3) to (17).

(2) The amendments made by paragraphs (3), (6) and (16) are to the Housing Benefit Regulations as modified in their application to persons to whom regulation 2 of the State Pension Credit Regulations applies.

(3) In regulation 16(**10**) (applicable amounts)—

(a) paragraphs (2), (3) and (4) shall be omitted;

(b) for paragraph (5) there shall be substituted the following paragraph—

"(5) In Schedule 2A(**11**)—

"additional spouse" means a spouse of either party to the marriage who is additional to the other party to the marriage;

"patient" means a person (other than a person who is serving a sentence of imprisonment or detention in a young offenders centre or a juvenile justice centre) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations (Northern Ireland)1975(**12**).";

(c) paragraph (7) shall be omitted.

(4) Regulation 18(**13**) (patients) shall be omitted.

(5) In regulation 21A(4)(c)(**14**) (treatment of child care charges) for "within the meaning of regulation 18(2) (patients)" there shall be substituted ", which in this regulation shall mean a person (other than a person who is serving a sentence of imprisonment or detention in a young offenders centre or a juvenile justice centre) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975.".

(6) In regulation 36(7)(a) (notional income), after "regulation 69(2)(b)" there shall be inserted "or (c)".

(7) In regulation 63(7)(e)(**15**) (non-dependant deductions) for heads (i) and (ii) there shall be substituted the following heads—

"(i) "patient" has the meaning given in paragraph (9) of regulation 5 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home),

(**7**) S.R. 1987 No. 461; relevant amending Rules are S.R. 1990 No. 137, S.R. 1992 Nos. 6, 85 and 141, S.R. 1994 No. 274, S.R. 1995 No. 89, S.R. 1996 No. 448, S.R. 1997 No. 4, S.R. 1998 No. 81, S.R. 2000 No. 367, S.R. 2001 Nos. 176, 213 and 215, S.R. 2003 Nos. 1, 187, 197 and 261, S.R. 2004 Nos. 46, 82, 144 and 390 and S.R. 2005 No. 185

(**8**) S.R. 2003 No.197; relevant amending Regulations are S.R. 2003 Nos. 261 and 418

(**9**) 1954 c. 33 (N.I.)

(**10**) Regulation 16 was substituted by regulation 6(1) of S.R. 2003 No. 197 and amended by S.R. 2003 Nos. 261 and 418

(**11**) Schedule 2A was inserted by regulation 6(2) of S.R. 2003 No. 197

(**12**) S.R. 1975 No. 109

(**13**) Regulation 18 was amended by regulation 7(e) of S.R. 1996 No. 448, regulation 2 of S.R. 1997 No. 4, regulation 4(3) of S.R. 2003 No. 261 and Article 16(6) of S.R. 2005 No. 82

(**14**) Regulation 21A was inserted by regulation 2(3) of S.R. 1994 No. 274

(**15**) Regulation 63(7)(e) was added by regulation 2(d)(iv) of S.R. 1992 No. 85 and amended by regulation 4(4) of S.R. 2003 No. 261 and regulation 5(1).and (2)(a)(ii) of S.R. 1998 No.81

(ii) where a person has been a patient for 2 or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods, and".

(8) In regulation 65 (date on which entitlement is to commence)—

(a) paragraph (3)(**16**) shall be omitted;

(b) for paragraph (5)(**17**), there shall be substituted the following paragraph—

"(5) A claimant shall become entitled to housing benefit from the benefit week in which the first day in respect of which his claim is made falls, where he is otherwise entitled to housing benefit and—

(a) regulation 72B applies to him and he becomes liable in that benefit week, for the first time, to make payments in respect of a dwelling which he occupies as his home, or,

(b) paragraph (2) does not apply to him and he becomes liable in that benefit week to make payments, which fall due on a daily basis, in respect of a hostel which he occupies as his home.".

(9) In regulation 68 (date on which change of circumstances is to take effect)—

(a) paragraph (1A)(**18**) shall be omitted;

(b) for paragraph (2)(**19**) there shall be substituted the following paragraph—

"(2) Subject to paragraph (13), except in a case where regulation 8(3) of the Decisions and Appeals Regulations (**20**) applies, where the change of circumstances is a change in the amount of rent or rates payable in respect of a dwelling, that change shall take effect from the day on which it actually occurs.";

(c) after paragraph (2) there shall be inserted the following paragraph—

"(2A) Subject to paragraphs (13) and (14), except in a case to which regulation 8(3) of the Decisions and Appeals Regulations applies, where the change of circumstances is—

(a) that a person moves into a new dwelling occupied as the home, or

(b) any other event which—

(i) entitles a person to be treated as occupying 2 dwellings as his home under regulation 5(5), or

(ii) brings to an end a person's right to be treated as occupying 2 dwellings as his home under that regulation, in a case where he has, immediately prior to the event, being treated as occupying 2 dwellings as his home,

that change of circumstances shall take effect on the day on which it actually occurs.

(2B) Subject to paragraph (13), where the change of circumstances is the expiry of a maximum period of time, referred to in regulation 5(5), for which a person can be treated as occupying 2 dwellings as his home, that change shall take effect on the day after the last day of that period.".

(d) in paragraph (3)(**21**)—

(i) "and (14)" shall be omitted;

(**16**) Paragraph (3) was added by regulation 4(3)(b) of S.R. 1990 No. 137
(**17**) Paragraph (5) was added by regulation 2(4)(b) of S.R. 2004 No. 390
(**18**) Paragraph (1A) was inserted by regulation 2(2)(b) of S.R. 2003 No. 189
(**19**) Paragraph (2) was amended by regulation 8(a)(ii) of S.R. 2001 No. 215 and regulation 13(b) of S.R. 2004 No. 144
(**20**) S.R. 2001 No. 213; paragraph (3) was amended by regulation 19(2)(b) of S.R. 2003 No. 197
(**21**) Paragraph (3) was substituted by regulation 7(b) of S.R. 1992 No. 141

(ii) in sub-paragraph (a)(i), after "69(2)(b)" there shall be inserted "or (c)";

(e) for paragraph (4)(**22**) there shall be substituted the following paragraph—

"(4) Subject to paragraph (13), if 2 or more changes of circumstances occurring in the same benefit week would, but for this paragraph, take effect in different benefit weeks in accordance with this regulation they shall take effect on the first day of the benefit week in which they occur unless a change taking effect under paragraphs (2), (2A) or (2B) takes effect in that week, in which case the changes shall all take effect on the day on which that change takes effect.";

(f) for paragraphs (13) and (14) there shall be substituted the following paragraphs—

"(13) Subject to paragraph (14), where a change of circumstances occurs which has the effect of bringing entitlement to an end it shall take effect on the first day of the benefit week following the benefit week in which that change actually occurs except in a case where a person is liable to make payments, which fall due on a daily basis, in respect of a hostel in which case that change shall take effect on the day on which it actually occurs.

(14) Where the change of circumstances is that a person moves to a new dwelling and immediately after the move he is treated as occupying his former dwelling as his home in accordance with regulation 5(5A) or (7A) then that change of circumstances shall take effect on the day after the last day for which he is treated as liable to make payments in respect of the former dwelling in accordance with whichever of those regulations applies in his case.".

(10) In regulation 68B(7A)(a)(i)(**23**)(change of circumstances where state pension credit payable), after "regulation 69(2)(b)", there shall be inserted "or (c)".

(11) In regulation 69 (calculation of weekly amounts)—

(a) in paragraph (2)—

(i) in sub-paragraph (a) for "paragraph (4)" there shall be substituted "paragraph (5)";

(ii) for sub-paragraph (b) there shall be substituted the following sub-paragraphs—

"(b) subject to paragraph (5), where the rent is payable at intervals of a calendar month or multiples thereof, the amount determined by dividing the amount payable by the number equal to the number of calendar months in respect of which it is payable, multiplying by 12 and dividing by 52;

(c) subject to paragraph (5), where the rent is payable at intervals of a day or multiples thereof, the amount determined by dividing the amount payable by the number equal to the number of days in respect of which it is payable and multiplying by 7.";

(b) in paragraph (3) for paragraph (b) there shall be substituted the following paragraphs—

"(b) subject to paragraph (5), where the rent is payable at intervals of a calendar month or multiples thereof, the amount determined by dividing the amount payable by the number equal to the number of calendar months in respect of which it is payable, multiplying by 12 and dividing by 52;

(c) subject to paragraph (5), where the rent is payable at intervals of a day or multiples thereof, the amount determined by dividing the amount payable by

(**22**) Paragraph (4) was amended by regulation 7(c) of S.R. 1992 No. 141 and regulation 13(b) of S.R. 2004 No. 144
(**23**) Regulation 68B was inserted by regulation 13(4) of S.R. 2003 No. 197 and paragraph (7A) was inserted by regulation 3(2) of S.R. 2004 No. 46