STATUTORY RULES OF NORTHERN IRELAND

2005 No. 185

HOUSING; RATES

The Housing Benefit (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2005

Made - - - - 31st March 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), 131(1), 132(3) and (4)(b), 132A(3), 133(2)(h) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), and now vested in it(**2**), and paragraphs 4(5) and 20(1)(b) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**3**), and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**4**), and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(**5**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2005 and shall come into operation on –

(a) for the purposes of regulation 2(6) on 3rd April 2005;

(b) for all other purposes, on 4th April 2005.

(2) In these Regulations –

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**6**);

(**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) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
(**2**) *See* Article 8(b) of S.R. 1999 No. 481
(**3**) 2000 c. 4 (N.I.)
(**4**) *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
(**5**) *See* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
(**6**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1990 No. 297, S.R. 1993 No. 145, S.R. 1995 Nos. 89 and 101, S.R. 1998 No. 81 and S.R. 2000 No. 367

"the State Pension Credit Regulations" means the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003(**7**).

(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 Regulations

2.—(1) Subject to paragraph (2), the Housing Benefit Regulations shall be amended in accordance with paragraphs (2) to (7).

(2) The amendments made by paragraphs (4) and (7) 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 5 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) –

(a) in paragraph (7A)(**9**), after "person" where it first appears, there shall be inserted "to whom neither paragraph (5)(a)(**10**) nor (8B)(c)(x)(**11**) applies";

(b) for paragraph (8A)(**12**) there shall be substituted the following paragraphs –

"(8A) This paragraph applies to a person who is –

(a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health (Northern Ireland) Order 1986(**13**)), and

(b) on temporary release from such detention in accordance with Rules made under the provisions of the Prison Act (Northern Ireland) 1953(**14**).

(8ZA) Where paragraph (8A) applies to a person, then, for any day that he is on temporary release –

(a) if such temporary release was immediately preceded by a period of temporary absence under paragraph (8) or (8B), he shall be treated as if he continues to be absent from the dwelling, despite any occupation of the dwelling;

(b) for the purposes of paragraph (8B)(c)(i), he shall be treated as if he remains in detention, and

(c) if he does not fall within paragraph (a), he shall be treated as if he does not occupy his dwelling as his home despite any such occupation of the dwelling.";

(c) in paragraph (8B)(c)(viii) "or regulation 48A(1)(**15**)" shall be omitted;

(d) in paragraph (8B)(c)(x) there shall be omitted, "or (7A)".

(4) In regulation 36 (notional income) –

(a) in paragraph (1)(a), before "the amount" there shall be inserted "subject to paragraph (1A),";

(b) after paragraph (1) there shall be inserted the following paragraphs –

(**7**) S.R. 2003 No. 197; relevant amending Regulations are S.R. 2003 No. 418
(**8**) 1954 c. 33 (N.I.)
(**9**) Paragraph (7A) was inserted by regulation 3(f) of S.R. 1993 No. 145
(**10**) Paragraph (5)(a) was amended by regulation 3(a)(i) and (ii) of S.R. 1993 No. 145
(**11**) Paragraph (8B) was inserted by regulation 2(2)(c) of S.R. 1995 No. 101
(**12**) Paragraph (8A) was inserted by regulation 5 of S.R. 1995 No. 89 and amended by regulation 5(1) and (2)(a)(i) of S.R. 1998 No. 81
(**13**) S.I. 1986/595 (N.I. 4)
(**14**) 1953 c. 18 (N.I.)
(**15**) Regulation 48A(1) was inserted by regulation 3(6) of S.R. 1990 No. 297