STATUTORY RULES OF NORTHERN IRELAND

2005 No. 148

HOUSING; RATES

The Housing Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 2005

Made - - - - 21st March 2005
Coming into operation in accordance with regulation 1(2) to (4)

The Department for Social Development, in exercise of the powers conferred by sections 122(1)(d), 132(3) and (4)(b), 132A(3) 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 of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**3**), and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(**4**), hereby makes the following Regulations:

Citation, commencement and interpretation

1. mdash;

(1) These Regulations may be cited as the Housing Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 2005.

(2) Subject to paragraphs (3) and (4), these Regulations shall come into operation on 1st April 2005.

(3) Regulations 2(3) to (7) shall come into operation –

(a) in relation to any case where rent is payable at intervals of a whole number of weeks, on 4th April 2005, and

(b) in relation to any other case, on 1st April 2005.

(4) Regulation 2(8) shall come into operation on 3rd October 2005.

(5) 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) 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**) *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
(**4**) *See* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**5**).

(6) The Interpretation Act (Northern Ireland) 1954(**6**) 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 (8).

(2) The amendments made by paragraphs (6) and (7) are to the Housing Benefit Regulations as modified in their application to persons to whom regulation 2 of the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003(**7**) applies.

(3) In regulation 21A(**8**) (treatment of child care charges) –

(a) in paragraph (1), for sub-paragraph (c), there shall be substituted the following sub-paragraph –

"(c) is a member of a couple where one member is engaged in remunerative work and the other –

(i) is incapacitated;

(ii) is an in-patient in hospital, or

(iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).";

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

"(1A) For the purposes of paragraph (1) and subject to paragraph (1C), a person to whom paragraph (1B) applies shall be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he –

(a) is paid statutory sick pay;

(b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the Contributions and Benefits Act;

(c) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support (General) Regulations (Northern Ireland) 1987(**9**), or

(d) is credited with earnings on the grounds of incapacity for work under regulation 8B of the Social Security (Credits) Regulations (Northern Ireland) 1975(**10**).

(1B) This paragraph applies to a person who was engaged in remunerative work immediately before –

(a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit or income support on the grounds of incapacity for work, or

(b) the first day of the period in respect of which earnings are credited,

(**5**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1990 No. 345, S.R. 1991 No. 520, S.R. 1994 Nos. 88 and 274, S.R. 1999 No. 298, S.R. 2001 No. 259 and S.R. 2002 Nos. 299 and 363
(**6**) 1954 c. 33 (N.I.)
(**7**) S.R. 2003 No. 197
(**8**) Regulation 21A was inserted by regulation 2(3) of S.R. 1994 No. 274
(**9**) S.R. 1987 No. 459
(**10**) S.R. 1975 No. 113

as the case may be.

(1C) In a case to which paragraph (1A)(c) or (d) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.";

(c) in paragraph (2ZB)(**11**) –

(i) at the end of sub-paragraph (a), for ", or" there shall be substituted ";";

(ii) at the end of sub-paragraph (b), for "." there shall be substituted ", or";

(iii) after sub-paragraph (b), there shall be added the following sub-paragraph –

"(c) in respect of care provided by a relative of a child wholly or mainly in the child's home.";

(d) in paragraph (2ZC)(**12**) –

(i) sub-paragraphs (a), (c) and (d) shall be omitted;

(ii) at the end of sub-paragraph (e), for "." there shall be substituted ", or";

(iii) after sub-paragraph (e), there shall be added the following sub-paragraph –

"(f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002(**13**)." ;

(e) in paragraph (7)(b)(**14**) for "incurred" there shall be substituted "is incurring" and "in that week" shall be omitted;

(f) paragraph (10)(**15**) shall be omitted.

(4) After regulation 24 (average weekly income other than earnings), there shall be inserted the following regulation –

"**Calculation of average weekly income from tax credits**

24A.—(1) This regulation applies where a claimant receives a tax credit.

(2) Where this regulation applies, the period over which a tax credit is to be taken into account shall be the period set out in paragraph (3).

(3) Where the instalment in respect of which payment of a tax credit is made is –

(a) a daily instalment, the period is one day, being the day in respect of which the instalment is paid;

(b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;

(c) a two weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid;

(d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.

(4) For the purposes of this regulation "tax credit" means child tax credit or working tax credit.".

(**11**) Paragraph (2ZB) was substituted by regulation 4(2) of S.R. 1999 No. 298

(**12**) Paragraph (2ZC) was substituted by regulation 4(2) of S.R. 1999 No. 298

(**13**) 2002 c. 21

(**14**) Paragraph (7) was inserted by regulation 3 of S.R. 2001 No. 259 and substituted by regulation (4) of S.R. 2002 No. 363

(**15**) Paragraph (10) was inserted and numbered as paragraph (8) by S.R. 2001 No. 259 and substituted and renumbered as paragraph (10) by S.R. 2002 No. 363