STATUTORY RULES OF NORTHERN IRELAND

2004 No. 394

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Housing Benefit, State Pension Credit and Miscellaneous Amendments) Regulations (Northern Ireland) 2004

Made - - - - 15th September 2004
Coming into operation in accordance with regulation 1(1)

The Department for Social Development, in exercise of the powers conferred by sections 122(1)(a) and (d), 129(4), 131(1), 132(1), (3) and (4), 132A(3) and (4)(a), 133(2)(c), (d) and (h) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 5(1)(h) and 165(1), (4) and (6) of the Social Security Administration (Northern Ireland) Act 1992(**2**), Article 6(5) of the Jobseekers (Northern Ireland) Order 1995(**3**) and Articles 11(6) and 74(1) of the Social Security (Northern Ireland) Order 1998(**4**) and now vested in it(**5**) and paragraphs 4(5) and 20(1)(b) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**6**) and sections 2(3)(b), 15(1)(j) and (6)(b) and 16(2)(a) of the State Pension Credit Act (Northern Ireland) 2002(**7**) and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**8**), in so far as regulation 2 is concerned and after agreement by the Social Security Advisory Committee that proposals in respect of that Regulation should not be referred to it(**9**), hereby makes the following Regulations:

(**1**) 1992 c. 7; section 132A was inserted by section 14 of and paragraph 3 of Part I of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14), Section 133(2)(d) was substituted by paragraph 18(3) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 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 165(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 section 165(6) was amended by paragraph 86 of Schedule 6, and Article 78(2) and Schedule 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))
(**3**) S.I. 1995/2705 (N.I. 15)
(**4**) S.I. 1998/1506 (N.I. 10); Article 74(1) was amended by paragraph 17(2) of Schedule 4 to the Tax Credits Act 2002 (c. 21)
(**5**) *See* Article 8(b) of and Part II of Schedule 6 to S.R. 1999 No. 481
(**6**) 2000 c. 4 (N.I.)
(**7**) 2002 c. 14 (N.I.)
(**8**) *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
(**9**) *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 (Housing Benefit, State Pension Credit and Miscellaneous Amendments) Regulations (Northern Ireland) 2004 and shall come into operation –

(a) for the purposes of this regulation and regulations 2(10)(a)(iii) and (iv) and (b) and (22) and 6(1) to (4) and (6), on 4th October 2004;

(b) for the purposes of regulation 7, on 6th October 2004;

(c) 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(**10**).

(3) The Interpretation Act (Northern Ireland) 1954(**11**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Housing Benefit Regulations

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

(2) The amendments made by paragraphs (4)(b), (9), (10), (13), (18) and (22) 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(**12**) applies.

(3) The amendment made by paragraph (8)(a) is 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 applies, and to those Regulations as not so modified.

(4) In regulation 4 (remunerative work) –

(a) in paragraph (5)(**13**) ", state pension credit" shall be omitted;

(b) paragraph (5B)(**14**) shall be omitted.

(5) In regulation 5 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home), for paragraph (8B)(c)(i)(**15**) there shall be substituted the following head –

"(i) detained in custody on remand pending trial or, as a condition of bail, required to reside in a dwelling, other than the dwelling he occupies as his home or, detained pending sentence upon conviction, or".

(6) In regulation 16(b)(**16**) (applicable amounts), from ", except a child or young person" to the end of that paragraph shall be omitted.

(7) In regulation 17(c)(**17**) (polygamous marriages) from ", except a child or young person" to the end of that paragraph shall be omitted.

(8) In regulation 19 (calculation of income and capital of members of claimant's family and of a polygamous marriage) –

(a) in paragraph (1) there shall be omitted –

(**10**) S.R. 1987 No. 461; relevant amending Rules are S.R. 1990 No. 297, S.R. 1992 No. 85, S.R. 1993 No. 381, S.R. 1995 No. 101, S.R. 1996 No. 334, S.R. 2000 No. 366, S.R. 2001 No. 215, S.R. 2003 Nos. 189, 197, 294 and 418 and S.R. 2004 Nos. 47 and 82
(**11**) 1954 c. 33 (N.I.)
(**12**) S.R. 2003 No. 197
(**13**) Paragraph (5) was amended by regulation 3 of S.R. 1996 No. 334 and regulation 3(2) of S.R. 2003 No. 418
(**14**) Paragraph (5B) was inserted by regulation 2(3) of S.R. 2003 No. 418
(**15**) Paragraph (8B) was inserted by regulation 2(2)(c) of S.R. 1995 No. 101
(**16**) Regulation 16(b) was amended by regulation 5 of S.R. 1993 No. 381 and Article 19(2) of S.R. 2004 No. 82
(**17**) Regulation 17(c) was amended by regulation 6 of S.R. 1993 No. 381 and Article 19(2) of S.R. 2004 No. 82

(i) from "and, subject to" to "a child or young person,", and

(ii) "or that child or young person";

(b) paragraph (2) shall be omitted;

(c) in paragraph (3) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs –

"(a) the claimant shall be treated as possessing capital and income belonging to each such member; and

(b) the income and capital of that member shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant.";

(d) after paragraph (3) there shall be added the following paragraph –

"(4) The income and capital of a child or young person shall not be treated as the income and capital of the claimant.".

(9) In regulation 23(4)(**18**) (calculation of claimant's income and capital in savings credit only cases) –

(a) for sub-paragraph (b) there shall be substituted the following sub-paragraph –

"(b) in respect of any dependent children of the claimant, childcare charges taken into account under regulation 26(1)(c);";

(b) in sub-paragraph (c)(**19**) heads (ii) and (iii) shall be omitted.

(10) In regulation 25 (meaning of "income") –

(a) in paragraph (1) –

(i) in sub-paragraph (b) "and child tax credit" shall be omitted;

(ii) in sub-paragraph (f) after head (iv) there shall be inserted the following head –

"(iv)(a) child benefit;";

(iii) at the end of sub-paragraph (q)(**20**) for ", and" there shall be substituted ";";

(iv) after sub-paragraph (r) there shall be added the following sub-paragraph –

"and

(s) any payment made at regular intervals under an equity release scheme.";

(b) after paragraph (6) there shall be added the following paragraph –

"(7) In paragraph (1)(s) "equity release scheme" means a loan –

(a) made between a person ("the lender") and the claimant;

(b) by means of which a sum of money is advanced by the lender to the claimant by way of payments at regular intervals; and

(c) which is secured on a dwelling in which the claimant owns an estate or interest and which he occupies as his home.".

(11) In regulation 33(1)(**21**) (calculation of income other than earnings) from "or 36" to the end of that paragraph shall be omitted.

(12) Regulation 36 (modifications in respect of child and young person) shall be omitted.

(**18**) Regulations 21 to 44 were substituted by regulation 8 of S.R. 2003 No. 197 and paragraph (4)(b) was amended by regulation 2(5)(a) of S.R. 2003 No. 418

(**19**) Paragraph (c) was amended by regulation 3(2)(a)(i) of S.R. 2004 No. 47

(**20**) Sub-paragraphs (q) and (r) were added by regulation 2(5)(b)(iii) of S.R. 2003 No. 418

(**21**) Regulation 33(1) was amended by regulation 3(4)(a) of S.R. 1990 No. 297 and regulation 10 of S.R. 1993 No. 381

(13) In regulation 42 (notional capital) for paragraph (2) there shall be substituted the following paragraph –

"(2) A person who disposes of capital for the purpose of –

(a) reducing or paying a debt owed by the claimant, or

(b) purchasing goods or services if the expenditure was reasonable in the circumstances of the claimant's case,

shall be regarded as not depriving himself of it.".

(14) In regulation 63 (non-dependant deductions) after paragraph (9)(**22**) there shall be added the following paragraph –

"(10) No deduction shall be made in respect of a non-dependant who is on state pension credit.".

(15) In regulation 68 (date on which change of circumstances is to take effect) –

(a) paragraph (1)(**23**) after "paragraphs (3) to (12)" there shall be inserted ", regulation 68B";

(b) in paragraph (9)(b)(ii)(**24**) for "the income of a non-dependant increased" there shall be substituted "there has been a change of circumstances in respect of a non-dependant".

(16) In regulation 68B(**25**) (change of circumstances where state pension credit payable) –

(a) after paragraph (5) there shall be inserted the following paragraphs –

"(5A) Where, in the case of a claimant who, or whose partner, is or has been awarded state pension credit comprising only the savings credit, there is –

(a) a change of circumstances of a kind described in any of paragraphs (2) to (5) which results from a relevant calculation or estimate, and

(b) a change of circumstances which is a relevant determination,

each of which results in a change in the rate of housing benefit payable to the claimant, the change of circumstances referred to in sub-paragraph (b) shall take effect from the day specified in paragraph (2), (3), (4) or (5) as the case may be, in relation to the change referred to in sub-paragraph (a).";

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

"(9) In this regulation –

"relevant calculation or estimate" means the calculation or estimate made by the Department of the claimant's or, as the case may be, the claimant's partner's income and capital for the purposes of the award of state pension credit;

"relevant determination" means a change in the determination by the relevant authority of the claimant's income and capital using the relevant calculation or estimate, in accordance with regulation 23(1) as modified in their application to persons to whom regulation 2(1) of the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003 applies.".

(17) In paragraph 14 of Schedule 2 (applicable amounts) sub-paragraph (a)(**26**) and the word "and" immediately following it shall be omitted.

(**22**) Paragraph (9) was added by regulation 2(e) of S.R. 1992 No. 85

(**23**) Paragraph (1) was amended by regulation 8(a)(i) of S.R. 2001 No. 215, regulation 2(2)(a)(i) of S.R. 2003 No. 189, regulation 13(2) of S.R. 2003 No. 197, regulation 11(a) of S.R. 2003 No. 294 and regulation 13(a) of S.R. 2004 No. 144

(**24**) Paragraph (9) was added by regulation 13(3) of S.R. 2003 No. 197 and amended by regulation 2(9)(a)(i) of S.R. 2003 No. 418

(**25**) Regulation 68B was inserted by regulation 13(4) of S.R. 2003 No. 197 and paragraph (5) was amended by regulation 2(9)(b)(iv) of S.R. 2003 No. 418

(**26**) Sub-paragraph (a) was amended by regulation 12(b) of S.R. 1993 No. 381 and Article 19(2) of S.R. 2004 No. 82

(18) In Schedule 2A(**27**) (applicable amounts for persons who have attained or whose partner has attained the qualifying age for state pension credit) in paragraph 1, column (1), sub-paragraph (1), after "Single claimant" there shall be inserted "or lone parent".

(19) In Schedule 3 (sums to be disregarded in the calculation of earnings) –

(a) in paragraph 13 the words from "except" to "applies" shall omitted;

(b) paragraph 14(**28**) shall be omitted.

(20) In paragraph 25(2) of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) for the words from "a child or young person" to "so much" there shall be substituted "a child or young person, so much".

(21) In paragraph 21(**29**) of Schedule 5 (capital to be disregarded) there shall be omitted –

(a) ", 36(5)"; and

(b) ", modifications in respect of child and young person".

(22) In paragraph 4(a) of Part I of Schedule 5ZA(**30**) (capital to be disregarded) for the words from "partner" to "claimant" there shall be substituted "person who is a relative of the claimant or of his partner".

Amendment of Social Security and Child Support (Decisions and Appeals) Regulations

3. In regulation 7(17B)(d)(ii) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**31**) (date from which a decision superseded under Article 11 takes effect) for "a non-dependant's income increases and this affects" there shall be substituted "there has been a change of circumstances in respect of a non-dependant and this reduces".

Amendment of the Income Support (General) Regulations

4. In Schedule 3(**32**) to the Income Support (General) Regulations (Northern Ireland) 1987(**33**) (housing costs) –

(a) in paragraph 3(11)(c) (circumstances in which a person is to be treated as occupying a dwelling as his home) for sub-head (i) there shall be substituted the following sub-head –

"(i) detained in custody on remand pending trial or, as a condition of bail, required to reside in a dwelling, other than the dwelling he occupies as his home or, detained pending sentence upon conviction, or";

(b) in paragraph 18 (non-dependant deductions) –

(i) in sub-paragraph (1) for heads (a) to (c)(**34**) there shall be substituted the following heads –

"(a) in respect of a non-dependant aged 18 or over who is engaged in any remunerative work, £47·75;

(b) in respect of a non-dependant aged 18 or over to whom head (a) does not apply, £7·40.";

(ii) in sub-paragraph (7) –

(**27**) Schedule 2A was inserted by regulation 6(2) of S.R. 2003 No. 197
(**28**) Paragraph 14 was amended by regulation 13(e) of S.R. 1993 No. 381 and regulation 3 of and Schedule to S.R. 2000 No. 366
(**29**) Paragraph 21 was amended by regulation 14(a) of S.R. 1993 No. 381
(**30**) Schedule 5ZA was inserted by regulation 12(1) and Schedule 2 of S.R. 2003 No. 197
(**31**) S.R. 1999 No. 162; paragraph (17B) was substituted by regulation 2(a) of S.R. 2004 No. 110
(**32**) Schedule 3 was substituted by regulation 2 of and Schedule 1 to S.R. 1995 No. 301
(**33**) S.R. 1987 No. 459; relevant amending Rules are S.R. 1995 No. 301, S.R. 2003 Nos. 191 and 261 and S.R. 2004 No. 82
(**34**) Heads (a) to (c) were substituted by regulation 24(6)(e) of S.R. 2003 No. 191 and amended by Article 16(6)(a) of S.R. 2004 No. 82