STATUTORY RULES OF NORTHERN IRELAND

2004 No. 197

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Habitual Residence Amendment) Regulations (Northern Ireland) 2004

Made - - - -	*29th April 2004*
Coming into operation	*1st May 2004*

The Department for Social Development, in exercise of the powers conferred by sections 122(1)(a) and (d), 131(1) and (2), 133(2)(i) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and Articles 6(5) and (12) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(**2**) and now vested in it(**3**), and section 1(5)(a) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(**4**) and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**5**), in so far as regulations 2 and 6 are concerned, and after reference to the Social Security Advisory Committee(**6**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations shall be cited as the Social Security (Habitual Residence Amendment) Regulations (Northern Ireland) 2004 and shall come into operation on 1st May 2004.

(2) In these Regulations –

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

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**8**);

(**1**) 1992 c. 7; section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
(**2**) S.I. 1995/2705 (N.I. 15); Article 36(2)(a) was amended by Article 4 of and paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
(**3**) *See* Article 8(b) of S.R. 1999 No. 481 and Part II of Schedule 6
(**4**) 2002 c. 14 (N.I.)
(**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 and Part II of Schedule 4
(**6**) *See* section 149(2) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
(**7**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1994 Nos. 80 and 266, S.R. 1996 Nos. 405 and 448, S.R. 1998 No. 81 and S.R. 2000 Nos. 71 and 125
(**8**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1994 No. 266, S.R. 1996 Nos. 375 and 405 and S.R. 2000 No. 71

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**9**);

"the State Pension Credit Regulations" means the State Pension Credit Regulations (Northern Ireland) 2003(**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. After regulation 7A of the Housing Benefit Regulations(**12**) (persons from abroad)

(a) in paragraph (4)(e)(i) after "No. 73/148/EEC" there shall be added "or a person who is an accession State worker requiring registration who is treated as a worker for the purpose of the definition of "qualified person" in regulation 5(1) of the Immigration (European Economic Area) Regulations 2000(**13**) pursuant to regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004(**14**)";

(b) after paragraph (4) there shall be inserted the following paragraph –

"(4B) In this regulation, for the purposes of the definition of a person from abroad no person shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland if he does not have a right to reside in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.".

Amendment of the Income Support Regulations

3. In regulation 21 of the Income Support Regulations (special cases) –

(a) in paragraph (3)(**15**) for "Subject to paragraph (3D)" there shall be substituted "Subject to paragraphs (3D) and (3E)";

(b) in paragraph (3) in the definition of "person from abroad"(**16**) in sub-paragraph (a) after "No. 73/148/EEC" there shall be added "or a person who is an accession State worker requiring registration who is treated as a worker for the purpose of the definition of "qualified person" in regulation 5(1) of the Immigration (European Economic Area) Regulations 2000 pursuant to regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004";

(c) after paragraph (3D)(**17**) there shall be inserted the following paragraph –

"(3E) In paragraph (3), for the purposes of the definition of a person from abroad no person shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland if he does not have a right to reside in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.".

(**9**) S.R. 1996 No. 198 ; relevant amending Regulations are S.R. 1996 Nos. 356 and 503 and S.R. 2000 No. 71
(**10**) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2003 No. 421
(**11**) 1954 c. 33 (N.I.)
(**12**) Regulation 7A was inserted by regulation 2(1) of S.R. 1994 No. 80 and paragraph (4) was amended by regulation 3(a) of S.R. 1994 No. 266, regulation 4(3)(b) of S.R. 1996 No. 405, regulation 2(b) of S.R. 1996 No. 448, regulation 11(3) and (4)(a) of S.R. 1998 No. 81, regulation 6(3)(a) of S.R. 2000 No. 71 and regulation 4 of S.R. 2000 No. 125
(**13**) S.I. 2000/2326
(**14**) S.I. 2004/1219
(**15**) Paragraph (3) was amended by regulation 3(2) of S.R. 1996 No. 375
(**16**) Definition of "person from abroad" was amended by regulation 2(1) of S.R. 1994 No. 266, regulation 5(6)(b) of S.R. 1996 No. 405 and regulation 5(4)(b) of S.R. 2000 No. 71
(**17**) Paragraph (3D) was inserted by regulation 3(3) of S.R. 1996 No. 375