STATUTORY RULES OF NORTHERN IRELAND

2004 No. 145

HOUSING; RATES

The Housing Benefit (Extended Payments (Severe Disablement Allowance and Incapacity Benefit) Amendment) Regulations (Northern Ireland) 2004

Made - - - - 26th March 2004
Coming into operation in accordance with regulation 1(1)

The Department for Social Development, in exercise of the powers conferred on it by sections 122(1)(d), 129(2) and (4), 131(1), 132(3) and (4), 133(1) and (2)(h) and (j) and 171(1), (3), (4) and (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), and sections 5(1)(a), (b), (d), (e), (h), (j) and (l), 165(4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(**2**) and now vested in it(**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 those 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 (Extended Payments (Severe Disablement Allowance and Incapacity Benefit) Amendment) Regulations (Northern Ireland) 2004 and shall come into operation on 5th April 2004 immediately following the coming into operation of the Housing Benefit (Abolition of Benefit Periods Amendment) Regulations (Northern Ireland) 2004(**6**).

(2) In these Regulations –

(**1**) 1992 c. 7
(**2**) 1992 c. 8
(**3**) *See* Article 8(b) of S.R. 1999 No. 481
(**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
(**6**) S.R. 2004 No. 144

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**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 regulation 2 of the Housing Benefit Regulations

2. In regulation 2(1) of the Housing Benefit Regulations (interpretation) after "extended payment"(**9**) there shall be inserted the following definition –

""extended payment (severe disablement allowance and incapacity benefit)" means a payment of housing benefit pursuant to regulation 62ZB;".

Extended payments (severe disablement allowance and incapacity benefit)

3. After regulation 62A of the Housing Benefit Regulations(**10**) (extended payments) there shall be inserted the following regulation –

"**Extended payments (severe disablement allowance and incapacity benefit)**

62ZB.—(1) Except in a case in which a person is in receipt of state pension credit, paragraph (2) shall apply where –

(a) a person ceases to be entitled to housing benefit –

(i) in accordance with regulation 65B(**11**) (date on which housing benefit is to end where entitlement to severe disablement allowance or incapacity benefit ceases), and

(ii) the condition referred to in paragraph 1 of Schedule 5B(**12**) (extended payments (severe disablement allowance and incapacity benefit)) is satisfied in his case, or

(b) a person ceases to be entitled to housing benefit because he has vacated the dwelling which he occupied as his home and the day on which he did so was either in the week in which he took up employment as an employed or self-employed earner, or in the preceding week, and –

(i) he ceased to be entitled to severe disablement allowance or incapacity benefit by reason of taking up employment as an employed or self-employed earner;

(ii) he had been entitled to and in receipt of severe disablement allowance, incapacity benefit or a combination of severe disablement allowance and incapacity benefit for a continuous period of at least 26 weeks,

(iii) he was not entitled to and in receipt of income support, and

(iv) the condition referred to in paragraph 1 of Schedule 5B is satisfied in his case.

(**7**) S.R. 1987 No. 461; relevant amending Rules are S.R. 1989 No. 125, S.R. 1990 Nos. 136 and 345 , S.R. 1992 Nos. 85, 404 and 549, S.R. 1993 Nos. 145, 195 and 233, S.R. 1996 Nos. 111, 115 and 334, S.R. 1997 Nos. 3 and 412, S.R. 1998 No. 81, S.R. 2000 No. 38, S.R. 2001 No. 215, S.R. 2002 No. 99 and S.R. 2004 No. 144
(**8**) 1954 c. 33 (N.I.)
(**9**) Definition of "extended payment" was inserted by regulation 2 of S.R. 1996 No. 115
(**10**) Regulation 62A was substituted by regulation 10 of S.R. 2004 No. 144
(**11**) Regulation 65B is inserted by regulation 4 of these Regulations
(**12**) Schedule 5B is inserted by Schedule 1 to these Regulations

(2) A person to whom paragraph (1) applies shall be treated as having made a claim under this regulation and his housing benefit shall be determined in accordance with Schedule 5B and any award so determined shall be referred to in these regulations as an "extended payment (severe disablement allowance and incapacity benefit)".

(3) For the purposes of any payment pursuant to this regulation –

(a) except in a case to which paragraph (b) applies the maximum housing benefit of any person mentioned in paragraph (1) shall be that which was applicable to him in the last week of the award of housing benefit which has ceased as mentioned in paragraph (1);

(b) the maximum housing benefit of any person the amount of whose extended payment (severe disablement allowance and incapacity benefit) is calculated in accordance with paragraph 6(b)(i) of Schedule 5B shall be determined in accordance with paragraph 7 of that Schedule;

(c) except in a case to which paragraph (d) applies, any person who meets the requirements of paragraph (1) shall be treated as possessing the same amounts of income and capital as they possessed in the last week of the award of housing benefit which has ceased as mentioned in paragraph (1), and

(d) any person whose maximum housing benefit is determined in accordance with paragraph 7 of Schedule 5B shall be treated as possessing no income or capital.

(4) Regulations 71, 72 and 73 (claims, evidence and information) shall not apply to a claim pursuant to this regulation and, subject to regulation 69(9)(**13**), Part IX (calculation of weekly amounts) shall not apply to any payment under it.

(5) In paragraph (1) references to a "person" include references to a person's partner and references to taking up employment include receiving remuneration for employment or an increased amount of remuneration for employment or engaging in employment for an increased number of hours.

(6) In a case where payment has been made under this regulation –

(a) the beneficiary shall be treated for the purpose of these Regulations and of the Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1996(**14**) as though he were entitled to and in receipt of housing benefit –

(i) during the 4 weeks immediately following the last day of his entitlement to housing benefit, or

(ii) until the date on which his liability for rent or rates or both ends,

whichever occurs first, and

(b) any claim for housing benefit made by the beneficiary within the period which under sub-paragraph (a) applies in his case or the 4 weeks thereafter shall be treated as having been made in respect of a period beginning immediately after the end of his previous award of housing benefit.".

Date on which award of benefit is to end where entitlement to severe disablement allowance or incapacity benefit ceases

4. After regulation 65A of the Housing Benefit Regulations(**15**) (date on which housing benefit is to end) there shall be inserted the following regulation –

(**13**) Regulation 69(9) was added by regulation 4 of S.R. 1996 No. 115
(**14**) S.R. 1996 No. 111
(**15**) Regulation 65A was inserted by regulation 11 of S.R. 2004 No. 144

"**Date on which housing benefit is to end where entitlement to severe disability allowance or incapacity benefit ceases**

65B. Except in a case in which the claimant or his partner is in receipt of state pension credit, a claimant's entitlement to housing benefit shall cease at the end of the benefit week in which entitlement to severe disablement allowance or incapacity benefit ceases where –

(a) the claimant or his partner was entitled to and in receipt of income support but was entitled to and in receipt of severe disablement allowance or incapacity benefit and that entitlement has ceased;

(b) that entitlement to severe disablement allowance or incapacity benefit has ceased by reason of the claimant or his partner –

(i) commencing employment as an employed or self-employed earner;

(ii) increasing their earnings from such employment, or

(iii) increasing the number of hours worked in such employment;

(c) the claimant had been entitled to and in receipt of severe disablement allowance or incapacity benefit for a continuous period of at least 26 weeks before the day on which his entitlement to severe disablement allowance or incapacity benefit ceased, and for the purposes of this sub-paragraph –

(i) a claimant satisfies the conditions of this sub-paragraph if he has been entitled to and in receipt of a combination of severe disablement allowance and incapacity benefit for at least 26 weeks;

(ii) references to the claimant include references to his partner, and

(d) that work, increase in earnings, or as the case may be, increase in hours is expected to last at least 5 weeks or more.".

Amendment of regulation 69 of the Housing Benefit Regulations

5. In regulation 69(9) of the Housing Benefit Regulations (calculation of weekly amounts) –

(a) after "extended payment" there shall be inserted "or an extended payment (severe disablement allowance and incapacity benefit)", and

(b) after "Part III of Schedule 5A" there shall be inserted "or paragraph 10 of Schedule 5B, as the case may be".

Insertion of Schedule 5B into the Housing Benefit Regulations

6. After Schedule 5A to the Housing Benefit Regulations(**16**) (extended payments of housing benefit) there shall be inserted the following Schedule –

"SCHEDULE 5B

EXTENDED PAYMENTS (SEVERE DISABLEMENT ALLOWANCE AND INCAPACITY BENEFIT) OF HOUSING BENEFIT

Condition for an extended payment (severe disablement allowance and incapacity benefit)

1. The condition prescribed in this paragraph is that the claimant or the claimant's partner –

(a) notifies either the designated office or an appropriate office that he or his partner –

(**16**) Schedule 5A was inserted by regulation 6 of S.R. 1996 No. 115