STATUTORY RULES OF NORTHERN IRELAND

2003 No. 418

HOUSING; RATES

The Housing Benefit (State Pension Credit and Miscellaneous Amendments) Regulations (Northern Ireland) 2003

Made - - - - *23rd September 2003*
Coming into operation in accordance with regulation 1(1)

The Department for Social Development, in exercise of the powers conferred by the provisions specified in the Schedule to these Regulations and now vested in it(**1**), section 132A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**2**) and paragraphs 3(1), 4(3) and (5) and 20(1) and (3) 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 (State Pension Credit and Miscellaneous Amendments) Regulations (Northern Ireland) 2003 and shall come into operation –

(a) for the purposes of this regulation and regulation 2, on 5th October 2003;

(b) for all other purposes on 6th October 2003.

(2) In these Regulations –

"the Decisions and Appeals Regulations" means the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(**6**);

(**1**) *See* Article 8(b) of S.R. 1999 No. 481
(**2**) 1992 c. 7; section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.))
(**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. 2001 No. 213; relevant amending Regulations are S.R. 2002 No. 80 and S.R. 2003 No. 224

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

"the State Pension Credit Regulations" means the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003(**8**);

(3) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the State Pension Credit Regulations

2.—(1) The State Pension Credit Regulations shall be amended in accordance with paragraphs (2) to (14).

(2) In regulation 3(1)(d) (interpretation) in the definition of "board and lodging accommodation" for "that the person to who" there shall be substituted "than the person to whom".

(3) After regulation 3 there shall be added the following regulation –

"**Modification of regulation 4**

3A. In regulation 4 (remunerative work), after paragraph (5A)(**10**), there shall be inserted the following paragraph –

"(5B) Paragraph (5) shall not apply for the purposes of regulation 27 (treatment of child care charges) or paragraph 9 of Schedule 3A (sums disregarded from claimant's earnings).".

(4) In regulation 6 (applicable amounts) –

(a) in paragraph (1), in substituted regulation 16(3) (applicable amounts)(**11**) –

(i) in sub-paragraph (a) after "partner" there shall be inserted "and is not a lone parent", and

(ii) after sub-paragraph (a) there shall be inserted the following sub-paragraph –

"(aa) is a lone parent, the applicable amount shall be an amount equal to the standard reduction, increased by such of the amounts specified in sub-paragraphs (b) to (e) of paragraph (1) as apply in his case;", and

(b) in paragraph (2) –

(i) in paragraph 6(2)(b)(ii) (severe disability premium) of the new Schedule 2A (applicable amounts for persons who have attained or whose partner has attained the qualifying age for state pension credit), for the words from "one" to "marriage are" there shall be substituted ", each other member of that marriage is", and

(ii) in paragraph 8 (disabled child premium) of that new Schedule 2A, after sub-paragraph (b) there shall be added the following sub-paragraph –

", or

(c) is a child or a young person in respect of whom section 141A of the Contributions and Benefits Act(**12**) applies for the purposes of entitlement to child benefit, but only for the period prescribed under

(**7**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1996 No. 334, S.R. 2000 No. 369 and S.R. 2002 No. 295
(**8**) S.R. 2003 No. 197
(**9**) 1954 c. 33 (N.I.)
(**10**) Paragraph (5A) was inserted by regulation 12(3) of S.R. 2000 No. 369
(**11**) Regulation 16, in so far as it applies to any person who has attained the qualifying age for state pension credit, is substituted by regulation 6 of S.R. 2003 No. 197 and amended by regulation 4(2) of S.R. 2003 No. 261
(**12**) Section 141A was inserted by section 55(1)(b) of the Tax Credits Act 2002 (c. 21)

that section, and in respect of whom a disabled child premium was included in the claimant's applicable amount immediately before the death of that child.".

(5) In regulation 8 (income and capital) –

(a) in substituted regulation 23(4) (calculation of claimant's income and capital in savings credit only cases) –

(i) in sub-paragraph (b), head (iv) shall be omitted;

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

"(f) any income, in excess of £10, which falls to be disregarded under the provisions of paragraph 1 of the Second Schedule.";

(b) in substituted regulation 25(1) (meaning of "income") –

(i) in sub-paragraph (e) after "under" insert "Part I of";

(ii) in sub-paragraph (o) for ", and" there shall be substituted ";";

(iii) after sub-paragraph (p) there shall be added the following sub-paragraphs –

"(q) any income in lieu of that specified in sub-paragraphs (a) to (n), and

(r) any payment of rent or, as the case may be, rates made to a claimant who –

(i) owns the freehold or leasehold interest in any property or is a tenant of any property;

(ii) occupies part of the property, and

(iii) has an agreement with another person allowing that person to occupy that property on payment of rent or, as the case may be, rates.";

(c) in substituted regulation 27(11)(c) (treatment of child care charges) for "statutory adoption pay under section 167ZL(**13**) of that Act or qualifying support." there shall be substituted "or statutory adoption pay under section 167ZL of that Act.";

(d) in substituted regulation 27(12) for sub-paragraphs (b) and (c) there shall be substituted the following sub-paragraphs –

"(b) if no child care element of working tax credit is in payment on the date that entitlement to maternity allowance, statutory maternity pay, statutory paternity pay or statutory adoption pay ends, the date entitlement ends, or

(c) if a child care element of working tax credit is in payment on the date that entitlement to maternity allowance, statutory maternity pay, statutory paternity pay or statutory adoption pay ends, the date that entitlement to that award of the child care element of working tax credit ends,";

(e) in substituted regulation 27, for paragraph (13) there shall be substituted the following paragraph –

"(13) In paragraph (12), "child care element" of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credits Act 2002 (child care element)(**14**).";

(f) in substituted regulation 30(1) (earnings of employed earners) –

(**13**) Section 167ZL was inserted by Article 6 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2))
(**14**) 2002 c. 21

(i) in sub-paragraph (i) for "Part XIIZA" there shall be substituted "section 167ZA or 167ZB(**15**)";

(ii) in sub-paragraph (j) for "Part XIIZB" there shall be substituted "section 167ZL";

(g) in substituted regulation 31(5)(a) (calculation of net earnings of employed earners) ", 257A(1)" shall be omitted.

(6) In regulation 10 (continuing payments where state pension credit claimed) –

(a) "10. — (1)" shall be renumbered "10.";

(b) in inserted regulation 62B (continuing payments where state pension credit claimed), in paragraph (5)(a) for "rent has increased" substitute "rent, or as the case may be, rates have increased".

(7) Regulation 11 (amendment of regulation 63) shall be omitted.

(8) After regulation 12 (application of Schedule 2) for the heading "PART IV" there shall be substituted "PART 4".

(9) In regulation 13 (date on which change of circumstances is to take effect) –

(a) in paragraph 3 –

(i) in added paragraph (9)(b), for the words from "since" to "anniversary date" there shall be substituted "either";

(ii) in added paragraph (10) for the words from "the next anniversary date" to the end there shall be substituted "the effective date.";

(iii) for added paragraph (11) there shall be substituted the following paragraph –

"(11) In paragraph (10) but subject to paragraph (12), "the effective date" means –

(a) where more than one change of a kind referred to in paragraph (9)(b) relating to the same non-dependant has occurred since –

(i) the date on which the claimant's entitlement to housing benefit first began, or

(ii) the date which was the last effective date in respect of such a change,

whichever is the later, the date which falls 26 weeks after the date on which the first such change occurred;

(b) where sub-paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in paragraph (9)(b) occurred.", and

(iv) in added paragraph (12) –

(aa) for "sub-paragraphs (a) to (c)" there shall be substituted "paragraph (11)";

(bb) for "anniversary date" there shall be substituted "effective date", and

(cc) for "those paragraphs" there shall be substituted "that paragraph";

(b) in paragraph (4), in inserted regulation 68B –

(i) in paragraph (1), for "(2) to (8)" there shall be substituted "(2) to (4)";

(ii) in paragraph (2) –

(**15**) Section 167ZA and 167ZB were inserted by Article 5 of the Employment (Northern Ireland) Order 2002

(aa) for "results in an increase" there shall be substituted –

"results in –

(a) an increase", and

(bb) after "increased rate" there shall be inserted –

", or

(b) a decrease in the rate at which housing benefit is payable to him, the change shall take effect from the first day of the benefit week next following the date on which –

(i) the relevant authority receives notification from the Department of the increase in the amount of state pension credit, or

(ii) state pension credit is increased,

whichever is the later.";

(iii) in paragraph (3)(b) for the words from "on which" to the end there shall be substituted –

"on which –

(i) the relevant authority receives notification from the Department of the reduction in the amount of state pension credit, or

(ii) state pension credit is reduced,

whichever is the later,";

(iv) in paragraphs (5) and (6) –

(aa) for "the change of circumstances is" there shall be substituted "a change of circumstances occurs in", and

(bb) for "has resulted" there shall be substituted "would result", and

(v) in paragraph (5) for the words "on which" to the end there shall be substituted –

"on which –

(a) the relevant authority receives notification from the Department of the award of state pension credit, or

(b) entitlement to state pension credit begins,

whichever is the later.";

(vi) in paragraph (6) for "a decrease" there shall be substituted "an increase".

(10) In regulation 14 (time claims are made or treated as made) –

(a) in paragraph (a)(ii) for "(aa)" there shall be substituted "(a)" and inserted sub-paragraph "(aaa)" shall be renumbered "(aa)";

(b) in paragraph (b), in inserted paragraph (10A) for "the age of 59 years and 35 weeks" there shall be substituted "the qualifying age for state pension credit, or who, or whose partner, will attain that age not more than 17 weeks after the date of his claim".

(11) In regulation 15 (notification of change of circumstances) in paragraph (b), in added paragraph (6)(b) ", child special allowance" shall be omitted.

(12) In regulation 16 (decisions) in paragraph (2), in inserted sub-paragraph (2)(b), for ", child benefit or child special allowance" there shall be substituted "or child benefit".

(13) In regulation 18(2) (minor amendments), sub-paragraph (a) shall be omitted.

(14) In Schedule 2 (disregards) –