STATUTORY RULES OF NORTHERN IRELAND

2003 No. 197

HOUSING; RATES

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

Made - - - - 25th March 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 Schedule 1 to this Rule and now vested in it(**1**), paragraphs 4(5), 12 and 20(1)(b) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**2**) and section 13(1) of the State Pensions Credit Act (Northern Ireland) 2002(**3**) and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**4**) by this statutory rule, which contains only regulations made by virtue of, or consequential upon section 14 of, and paragraph 3 of Schedule 2 to, the State Pension Credit Act (Northern Ireland) 2002 and which is made before the end of the period of 6 months beginning with the coming into operation of those provisions(**5**) hereby makes the following Regulations:

PART 1

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003 and shall come into operation –

(a) for the purposes of this regulation and regulation 21, on 6th April 2003;

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

(2) In these Regulations –

(**1**) *See* Article 8(b) of S.R. 1999 No. 481
(**2**) 2000 c. 4 (N.I.)
(**3**) 2002 c. 14 (N.I.)
(**4**) *See* section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) 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(5)(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(**6**);

"the qualifying age for state pension credit" has the meaning assigned to it by section 1(2)(b) and (6) of the State Pension Credit Act;

"the State Pension Credit Act" means the State Pension Credit Act (Northern Ireland) 2002.

(3) The Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to an Act of the Assembly.

(4) In Part 2 reference to any provision inserted in the Housing Benefit Regulations to a regulation of or Schedule to those Regulations is to those provisions as modified or amended by these Regulations.

PART 2

HOUSING BENEFIT MODIFICATIONS

Housing Benefit Regulations

2.—(1) The Housing Benefit Regulations shall have effect, except where paragraph (2) applies, in relation to any person who has attained the qualifying age for state pension credit subject to the modifications set out in this Part, Part 3 and Schedule 2.

(2) This paragraph applies if the claimant or if the claimant has a partner, his partner, is a person on income support or an income-based jobseeker's allowance within the meaning of the Housing Benefit Regulations.

Interpretation

3.—(1) In regulation 2 (interpretation) in paragraph (1) –

(a) for the definition of "assessment period" there shall be substituted the following definition –

> ""assessment period" means the period determined –
>
> (a) in relation to the earnings of a self-employed earner, in accordance with regulation 32 for the purpose of calculating the weekly earning of the claimant, or
>
> (b) in relation to any other income, in accordance with regulation 28 for the purpose of calculating the weekly income of the claimant;".

(b) after the definition of "the Registered Homes Order"(**8**) there shall be inserted the following definition –

> ""the State Pension Credit Act" means the State Pension Credit Act (Northern Ireland) 2002;";

(c) for the definition of "the benefit Acts" there shall be substituted the following definition –

(**6**) S.R. 1987 No. 461; relevant amending Rules are S.R. 1988 Nos. 318 and 424, S.R. 1989 Nos. 125, 139 and 260, S.R. 1990 Nos. 136, 137 and 345, S.R. 1991 Nos. 47 and 176, S.R. 1992 Nos. 6, 85, 201, 404 and 549, S.R. 1993 Nos. 145, 149, 195, 233 and 549, S.R. 1994 No. 80, S.R. 1995 No. 367, S.R. 1996 Nos. 11, 115, 334 , 375 and 448, S.R.1997 Nos. 3 and 22, S.R. 1998 No. 81, S.R. 1999 Nos. 381 and 416, S.R. 2000 Nos. 38 and 71, S.R. 2001 Nos. 25, 99, 175, 176 and 215, S.R. 2002 Nos. 99, 132 and 363 and S.R. 2003 Nos. 28 and 80

(**7**) 1954 c. 33 (N.I.)

(**8**) Definition of "the Registered Homes Order" was inserted by regulation 3(2) of S.R. 1993 No. 149

""the benefit Acts" means the Contributions and Benefits Act, the Jobseekers (Northern Ireland) Order 1995 and the State Pension Credit Act;";

(d) after the definition of "benefit week" there shall be inserted the following definitions –

""board and lodging accommodation" means accommodation provided to a person or, if he is a member of a family, to him and any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other that the person to who the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises;";

(e) after the definition of "the Fund"(**9**) there shall be inserted the following definition –

""guarantee credit" is to be construed in accordance with sections 1 and 2 of the State Pension Credit Act;";

(f) after the definition of "person on income support" there shall be inserted –

""person on state pension credit" means a person in receipt of state pension credit;";

(g) after the definition of "retirement annuity contract"(**10**) there shall be inserted the following definition –

""savings credit" has the meaning assigned to it by sections 1 and 3 of the State Pension Credit Act;".

(2) In that regulation, after paragraph (4) there shall be inserted the following paragraph –

"(4A) In these Regulations references to any person in receipt of a guarantee credit, a savings credit or state pension credit includes a reference to a person who would be in receipt thereof but for regulation 13 of the State Pension Credit Regulations (Northern Ireland) 2003(**11**) (small amounts of state pension credit).".

Regulation 5

4. In regulation 5 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) in paragraph (6)(c)(ii)(**12**), for "or the claimant's applicable amount includes a premium under paragraph 9, 9A, 10, 11, 13 or 14 of Schedule 2", there shall be substituted "or the claimant is a person who has attained or whose partner has attained the qualifying age for state pension credit".

Persons from abroad

5. In regulation 7A(5)(**13**) (persons from abroad) for sub-paragraph (d) there shall be substituted the following sub-paragraph –

"(d) is on a state pension credit;".

Applicable amounts

6.—(1) For regulations 16, 17 and 18 (applicable amounts, polygamous marriages and patients) there shall be substituted the following regulation –

(**9**) Definition of "the Fund" was inserted by regulation 4(2)(a) of S.R. 1992 No. 201
(**10**) Definition of "retirement annuity contract" was inserted by regulation 3(2)(c) of S.R. 1995 No. 367
(**11**) S.R. 2003 No. 28
(**12**) Paragraph (6)(c)(ii) was amended by regulation 2 of S.R. 1989 No. 260
(**13**) Regulation 7A was inserted by regulation 2(1) of S.R. 1994 No. 80 and paragraph (5) was substituted by regulation 5(b) of S.R. 1996 No. 11 and amended by regulation 4 of S.R. 1996 No. 334, regulation 2 of S.R. 1996 No. 375 and regulation 6(3)(a) of S.R. 2000 No. 71

"**Applicable amounts**

16.—(1) Subject to regulations 69, 70 and Schedule A1(**14**) (calculation of weekly amounts, rent and rate-free periods and treatment of claims for housing benefit by refugees), the applicable amount of a claimant who has attained or whose partner has attained the qualifying age for state pension credit shall be the aggregate of such of the following amounts as apply in his case –

(a) an amount in respect of his personal allowance determined in accordance with paragraph 1 of Schedule 2A(**15**) (personal allowances);

(b) an amount in respect of any child or young person who is a member of his family determined in accordance with paragraph 2 of Schedule 2A;

(c) if he is a member of a family of which at least one member is a child or young person an amount determined in accordance with paragraph 3(1) of Part II of Schedule 2A (family premium);

(d) if he is a member of a family of which one member is a child under the age of one year an additional amount determined in accordance with paragraph 3(2) of Part II of Schedule 2A;

(e) the amount of any premiums which may be applicable to him determined in accordance with Parts III and IV of Schedule 2A.

(2) Paragraph (3) applies in the case of –

(a) a claimant who;

(b) a claimant who has a partner one or both of whom, or

(c) a claimant who is a member of a polygamous marriage one or more of whose members,

is or are a patient, and has or have been a patient for a period exceeding 13 weeks but not exceeding 52 weeks, or, in exceptional circumstances, is unlikely to substantially exceed 52 weeks ("long term patient").

(3) In the case of a claimant to whom this paragraph applies and who –

(a) has no partner, the applicable amount determined in accordance with paragraph (1) shall be reduced by an amount equal to 38 per cent. of the weekly rate of the basic pension for the time being specified in section 44(4) of the Contributions and Benefits Act(**16**) (the standard reduction);

(b) has a partner and either the claimant or his partner is a long term patient, the applicable amount determined in accordance with paragraph (1) shall be reduced by an amount equal to 20 per cent. of the weekly rate of the basic pension for the time being specified in section 44(4) of the Contributions and Benefits Act;

(c) has a partner and both the claimant and his partner are long term patients, the applicable amount determined in accordance with paragraph (1) shall be reduced by an amount equal to twice the sum of the standard reduction;

(d) is a member of a polygamous marriage and one or more members of the marriage are long term patients, the applicable amount determined in accordance with paragraph (1) shall be reduced by an amount equal to the standard reduction multiplied by the number of members who are long term patients.

(**14**) Schedule A1 was inserted by regulation 6 of S.R. 1996 No. 448
(**15**) Schedule 2A is inserted by paragraph (2) of this regulation
(**16**) Section 44(4) was substituted by Article 64 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))

(4) Any calculation made for the purposes of paragraphs (2) and (3) shall be rounded to the nearest 5 pence, 2.5 pence being rounded to the next 5 pence above.

(5) In this regulation and Schedule 2A "patient" means a person (other than a person who is serving a sentence of imprisonment or detention in a young offenders centre or a juvenile justice centre) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975(**17**).

(6) In Schedule 2A, "additional spouse" means a spouse of either party to the marriage who is additional to the other party to the marriage.

(7) For the purposes of calculating the period of 13 weeks referred to in paragraph (2), where a person has been maintained free of charge while undergoing medical or other treatment as an in-patient in a hospital or similar institution within the meaning of that paragraph for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been so maintained for a period equal in duration to the total of those distinct periods.".

(2) After Schedule 2 there shall be inserted the following Schedule –

"SCHEDULE 2A Regulation 16

APPLICABLE AMOUNTS FOR PERSONS WHO HAVE ATTAINED OR WHOSE PARTNER HAS ATTAINED THE QUALIFYING AGE FOR STATE PENSION CREDIT

PART I

PERSONAL ALLOWANCES

1. The amount specified in column (2) in respect of each person or couple specified in column (1) shall be the amount specified for the purposes of regulation 16 –

Column (1) *Person, couple or polygamous marriage*	Column (2) *Amount*
(1) Single claimant aged –	(1)
(a) under 65;	(a) £102·10;
(b) 65 or over;	(b) £116·90.
(2) Couple –	(2)
(a) both members aged under 65;	(a) £155·80;
(b) one member or both members aged 65 or over.	(b) £175·00.
(3) If the claimant is a member of a polygamous marriage and none of the members of the marriage have attained the age of 65 –	(3)
(a) for the claimant and the other party to the marriage;	(a) £155·80;

(**17**) S.R. 1975 No. 109