STATUTORY RULES OF NORTHERN IRELAND

2002 No. 132

SOCIAL SECURITY

The Social Security (Amendment) (Residential Care and Nursing Homes) Regulations (Northern Ireland) 2002

Made - - - -	*29th March 2002*
Coming into operation	*8th April 2002*

The Department for Social Development, in exercise of the powers conferred on it by sections 5(1)(*q*) and 165(4) of the Social Security Administration (Northern Ireland) Act 1992(**1**), sections 67(2), 72(8), 122(1)(*a*), 123(1)(*e*), 131(1), 132(2) and (4)(*a*) and (*b*), 133(2)(*d*) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**2**), Articles 6(5), 14(4)(*a*) and (*b*), 15(3), 23 of, and paragraph 1(2)(*b*) of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(**3**), Article 12(1) of the Social Security (Northern Ireland) Order 1998(**4**), and now vested in it(**5**), and section 3 of the Personal Social Services (Preserved Rights) Act (Northern Ireland) 2002(**6**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Amendment) (Residential Care and Nursing Homes) Regulations (Northern Ireland) 2002 and shall come into operation on 8th April 2002.

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

Amendments to Regulations

2.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(**8**) shall be amended in accordance with Part I of the Schedule to these Regulations.

(**1**) 1992 c. 8
(**2**) 1992 c. 7; section 123(1)(*e*) was inserted by paragraph 13(5) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 and section 133(2)(*d*) was substituted by paragraph 18(3) of Schedule 2 to that Order
(**3**) S.I. 1995/2705 (N. I. 15); Article 15(3) was amended by paragraph 10(3) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))
(**4**) S.I. 1998/1506 (N.I. 10)
(**5**) *See* Article 8(*b*) of S.R. 1999 No. 481
(**6**) 2002 c. 5
(**7**) 1954 c. 33 (N.I.)
(**8**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 Nos. 146, 274, 318 and 431, S.R. 1989 Nos. 139 and 249, S.R 1990 No. 131, S.R. 1991 Nos. 170 and 345, S.R. 1992 No. 147, S.R. 1993 Nos. 149, 165, 235 and 373, S.R. 1994 No. 77,

(2) The Jobseeker's Allowance Regulations (Northern Ireland) 1996(**9**) shall be amended in accordance with Part II of the Schedule to these Regulations.

Amendment of the Social Security (Claims and Payments) Regulations

3.—(1) Schedule 8A to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**10**) (deductions from benefits and direct payment to third parties) shall be amended in accordance with paragraphs (2) and (3).

(2) In the definition of "hostel"(**11**) in paragraph 1 (interpretation), for "19(2)" there shall be substituted "2(1)".

(3) In paragraph 4 (miscellaneous accommodation costs)—

(a) in sub-paragraph (1)(*a*)(**12**), for "19(2)" there shall be substituted "2(1)";

(b) in sub-paragraph (1)(*b*)(**13**), "Schedule 4 (applicable amounts of persons in residential care homes and nursing homes) or" and "Schedule 3 (applicable amounts of persons in residential care and nursing homes) or" shall be omitted;

(c) in sub-paragraph (2)—

(i) head (*a*) shall be omitted;

(ii) in head (*ab*)(**14**)—

(aa) for the words from "does not have a preserved right" to "1972" there shall be substituted "is not in residential accommodation for the purposes of the Income Support Regulations or, as the case may be, for the purposes of the Jobseeker's Allowance Regulations,";

(bb) for the words from "will equal the aggregate of the amounts" to the end of the head there shall be substituted "will equal the amount prescribed in respect of personal expenses in paragraph 13(1) of Schedule 7 to the Income Support Regulations or, as the case may be, in paragraph 15(1) of Schedule 4 or paragraph 9(1) of Schedule 4A to the Jobseeker's Allowance Regulations;".

Amendment of the Social Security (Attendance Allowance) Regulations

4.—(1) The Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992(**15**) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 7 (persons in certain accommodation other than hospitals)—

(a) in paragraph (1)(**16**), for "regulations 7A and 8" there shall be substituted "regulation 8";

(b) paragraph (3)(*b*) shall be omitted;

S.R. 1996 Nos. 78, 199, 449 and 489, S.R. 1998 Nos. 326 and 421, S.R. 1999 No. 342, S.R. 2000 Nos. 71, 74, 242 and 366 and S.R. 2001 No. 78

(**9**) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 No. 358, S.R. 1998 No. 326, S.R. 1999 No. 342 and S.R. 2000 Nos. 71, 241, 242 and 350

(**10**) S.R. 1987 No. 465; Schedule 8A was inserted by regulation 2(3) of, and the Schedule to, S.R. 1988 No. 67; relevant amending Regulations are S.R. 1991 No. 488, S.R. 1993 Nos. 149 and 375 and S.R. 1996 No. 354

(**11**) Definition inserted by regulation 6(7)(*a*)(ii) of S.R. 1991 No. 488 and amended by paragraph 3(3) of Schedule 2 to S.R. 1993 No. 149

(**12**) Sub-paragraph (1) was substituted by paragraph 2(2) of Schedule 1 to S.R. 1993 No. 149 and head (*a*) was amended by regulation 2(26)(*d*)(ii) of S.R. 1996 No. 354

(**13**) Head (*b*) was amended by regulation 2(26)(*d*)(iii) of S.R. 1996 No. 354

(**14**) Head (*ab*) was inserted by regulation 3(11)(*b*) of S.R. 1993 No. 375 and amended by regulation 2(26)(*e*) of S.R. 1996 No. 354

(**15**) S.R. 1992 No. 20; relevant amending Regulations are S.R. 1993 Nos. 149 and 165 and S.R. 1994 No. 263

(**16**) Paragraph (1) was amended by regulation 5(2) of S.R. 1993 No. 149, regulation 2(2)(*a*) of S.R. 1993 No. 165 and regulation 2(2)(*a*) of S.R. 1994 No. 263

(c) in paragraph (4)(**17**)—

(i) "Subject to paragraph (4A)," shall be omitted;

(ii) in sub-paragraph (*b*), "and at least 3 other persons in that home are provided with board and personal care, excluding persons carrying on the home or employed there or their relatives" shall be omitted, and

(iii) paragraph (4A)(**18**) shall be omitted.

(3) Regulation 7A(**19**) (persons to whom regulations 7 and 8 apply with modifications) shall be omitted.

(4) Schedule 2(**20**) (persons to whom regulations 7 and 8 apply with modifications) shall be omitted.

Amendment of the Social Security (Disability Living Allowance) Regulations

5.—(1) The Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(**21**) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 9 (persons in certain accommodation other than hospitals)—

(a) in paragraph (1)(**22**), for "regulations 9A and 10" there shall be substituted "regulation 10";

(b) paragraph (6)(*c*) shall be omitted;

(c) in paragraph 7(**23**)—

(i) "Subject to paragraph (7A)" shall be omitted;

(ii) in sub-paragraph (*b*), "and at least 3 other persons in that home are provided with board and personal care, excluding persons carrying on the home or employed there or their relatives" shall be omitted;

(d) paragraph (7A)(**24**) shall be omitted.

(3) Regulation 9A(**25**) (persons to whom regulations 9 and 10 apply with modifications) shall be omitted.

(4) Schedule 2A(**26**) (persons to whom regulations 9 and 10 apply with modifications) shall be omitted.

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

6. In Schedule 2A to the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**27**) (date on which change of circumstances takes effect in certain cases where a claimant is in receipt of income support or a jobseeker's allowance)—

(a) after paragraph 3(*a*), there shall be inserted the following sub-paragraph—

(**17**) Paragraph (4) was amended by paragraph 2 of Schedule 2 to S.R. 1993 No. 149 and regulation 2(2)(*c*) of S.R. 1993 No. 165
(**18**) Paragraph (4A) was inserted by regulation 2(2)(*d*) of S.R. 1993 No. 165 and amended by regulation 2(2)(*c*) of S.R. 1994 No. 263
(**19**) Regulation 7A was inserted by regulation 2(3) of S.R. 1994 No. 263
(**20**) Schedule 2 was added by regulation 2(6) of, and Schedule 1 to, S.R. 1994 No. 263
(**21**) S.R. 1992 No. 32; relevant amending Regulations are S.R. 1992 No. 481, S.R. 1993 Nos. 149 and 165 and S.R. 1994 No. 263
(**22**) Paragraph (1) was amended by regulation 3(3)(*a*) of S.R. 1992 No. 481, regulation 3(2)(*a*) of S.R. 1994 No. 263 and regulation 3(2)(*a*) of S.R. 1993 No. 165
(**23**) Paragraph 7 was amended by paragraph 4 of Schedule 2 to S.R. 1993 No. 149 and regulation 3(2)(*d*) of S.R. 1993 No. 165
(**24**) Paragraph (7A) was inserted by regulation 3(2)(*e*) of S.R. 1993 No. 165
(**25**) Regulation 9A was inserted by regulation 3(3) of S.R. 1994 No. 263
(**26**) Schedule 2A was inserted by regulation 3(6) of, and Schedule 2 to, S.R. 1994 No. 263
(**27**) S.R. 1999 No. 162; Schedule 2A was inserted by regulation 6(22) of, and Schedule 1 to, S.R. 2000 No. 215

"(aa) income support is being paid from 8th April 2002 to persons who, immediately before that day, had a preserved right for the purposes of the Income Support Regulations;";

(b) after paragraph 8(*a*), there shall be inserted the following sub-paragraph—

"(aa) jobseeker's allowance is being paid from 8th April 2002 to persons who, immediately before that day, had a preserved right for the purposes of the Jobseeker's Allowance Regulations;".

Sealed with the Official Seal of the Department for Social Development on 29th March 2002.

John O'Neill
Senior Officer of the
Department for Social Development

SCHEDULE Regulation 2

Part I

Amendments to the Income Support (General) Regulations

1. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) for the definitions of "nursing home" and "residential care home"(**28**) there shall be substituted the following definitions—

""nursing home" means—

(a) any premises registered under Part III of the Registered Homes Order; or

(b) any premises used for the reception of such persons or the provision of such nursing or services as is mentioned in Article 16 of the Registered Homes Order and which are maintained or controlled by any body of persons constituted by a statutory provision or incorporated by Royal Charter;";

"residential care home" means an establishment—

(a) which is required to be registered under Part II of the Registered Homes Order and is so registered;

(b) run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;

(c) which provides residential accommodation with both board and personal care and is managed or provided by a body incorporated by Royal Charter or constituted by a statutory provision (other than a Health and Social Services Board or an HSS trust); or

(d) which is exempt from registration under Part II of the Registered Homes Order pursuant to Article 4(4)(*a*) of that Order (requirement of registration) because one or more of the residents are treated as relatives pursuant to Article 2(6) of that Order,

and in paragraph (*c*) "personal care" means personal care for persons in need of personal care by reason of old age and infirmity, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;";

(ii) in the definition of "residential accommodation"(**29**), "regulation 19 and" shall be omitted;

(iii) the definition of "preserved right"(**30**) shall be omitted;

(b) after paragraph (1) there shall be inserted the following paragraph—

"(1A) For the purposes of these Regulations, where a person's principal place of residence is a residential care home or a nursing home and he is temporarily absent from that home, he shall be regarded as continuing to reside in that home—

(a) where he is absent because he is a patient, for the first 6 weeks of any such period of absence and for this purpose—

(i) "patient" has the meaning it has in Schedule 7 by virtue of regulation 21(3), and

(**28**) The definition of "residential care home" was inserted by regulation 2(2)(*d*) of S.R. 1993 No. 149

(**29**) The definition of "residential accommodation" was substituted by regulation 2(*c*) of S.R. 1988 No. 318 and amended by paragraph 1 of Schedule 1 to S.R. 1989 No. 139

(**30**) The definition of "preserved right" was inserted by regulation 2(2)(*c*) of S.R. 1993 No. 149