STATUTORY RULES OF NORTHERN IRELAND

1999 No. 391

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Notional Income and Capital Amendment) Regulations (Northern Ireland) 1999

Made - - - -	*21st September 1999*
Coming into operation	*15th November 1999*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1), 132(4)(a) and 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and Articles 14(4)(a) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(**2**) and of all other powers enabling it in that behalf, with the consent of the Department of the Environment for Northern Ireland(**3**) in so far as regulation 2(2) and (3)(a) is concerned, and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(**4**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Notional Income and Capital Amendment) Regulations (Northern Ireland) 1999 and shall come into operation on 15th November 1999.

(2) In these Regulations—

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**5**);

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**6**);

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**7**).

(**1**) 1992 c. 7
(**2**) S.I. 1995/2705 (N.I. 15)
(**3**) *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))
(**4**) *See* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 c. 8
(**5**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1988 No. 424, S.R. 1993 No. 145 and S.R. 1998 No. 325
(**6**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 No. 318, S.R. 1995 No. 410, S.R 1997 No. 22 and S.R. 1998 No. 326
(**7**) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1998 No. 326

(3) The Interpretation Act (Northern Ireland) 1954(**8**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Notional income and notional capital

2.—(1) After head (i) in—

(a) both regulations 42(4)(a) and 51(3)(a) of the Income Support Regulations(**9**), and

(b) both regulations 105(10)(a) and 113(3)(a) of the Jobseeker's Allowance Regulations(**10**),

(which relate respectively to notional income and to notional capital), there shall be inserted the following—

"(ia) in a case where that payment is a payment of an occupational pension or is a pension or other periodical payment made under a personal pension scheme, as possessed by that single claimant or, as the case may be, by that member;".

(2) In both regulations 35(3) and 43(3) of the Housing Benefit Regulations(**11**) (which relate respectively to notional income and to notional capital)—

(a) immediately before sub-paragraph (a) there shall be inserted the following sub-paragraph —

"(za) to a third party in respect of a single claimant or a member of the family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension or is a pension or other periodical payment made under a personal pension scheme, be treated as possessed by that single claimant or, as the case may be, by that member;";

(b) in sub-paragraph (a), after "shall" there shall be inserted ", where it is not a payment referred to in sub-paragraph (za),".

(3) There shall be added as—

(a) regulations 35(3A)(d) and 43(3A)(c) of the Housing Benefit Regulations(**12**);

(b) regulations 42(4ZA)(d) and 51(3A)(c) of the Income Support Regulations(**13**);

(c) regulations 105(10A)(d) and 113(3A)(c) of the Jobseeker's Allowance Regulations(**14**),

the following sub-paragraph—

"under an occupational pension scheme or in respect of a pension or other periodical payment made under a personal pension scheme where—

(i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980(**15**);

(ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors, and

(iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.".

(**8**) 1954 c. 33 (N.I.)
(**9**) Regulation 42(4) was substituted by regulation 9(a) of S.R. 1988 No. 318 and amended by regulation 5(2) of S.R. 1995 No. 410 and regulation 2(2)(a) of S.R. 1998 No. 326 and regulation 51(3) was substituted by regulation 11(a) of S.R. 1988 No. 318 and amended by regulation 9 of S.R. 1997 No. 22 and regulation 3(2)(a) of S.R. 1998 No. 326
(**10**) Regulation 105(10) and 113(3) were amended by regulations 2(1)(a) and 3(1)(a) respectively of S.R. 1998 No. 326
(**11**) Regulations 35(3)(a) and 43(3)(a) were amended by S.R. 1988 No. 424, S.R. 1993 No. 145 and S.R. 1998 No. 325
(**12**) Regulations 35(3A) and 43(3A) were inserted by regulations 2(b) and 3(b) respectively of S.R. 1998 No. 325
(**13**) Regulations 42(4ZA) and 51(3A) were inserted by regulations 2(2)(b) and 3(2)(b) respectively of S.R. 1998 No. 326
(**14**) Regulations 105(10A) and 113(3A) were inserted by regulations 2(1)(b) and 3(1)(b) of S.R. 1998 No. 326
(**15**) 1980 c. 46