STATUTORY RULES OF NORTHERN IRELAND

1998 No. 2

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 1998

Made - - - - 9th January 1998

Coming into operation in accordance with regulation 1

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 3(2) and (3), 72(8), 102(10), 122(1), 123(1)(*d*)(ii) and (*e*), 131(1), 132(3) and (4)(*b*) and (*d*), 133(2)(*i*) and (*l*) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and Articles 5(1)(*f*)(iii), 6(5) and 14(4)(*b*) and (*d*) of, and paragraph 12 of Schedule 1 to, 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 3 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 (Miscellaneous Amendments) Regulations (Northern Ireland) 1998 and, subject to paragraph (2), shall come into operation on 23rd February 1998.

(2) In relation to any particular claimant for either family credit or disability working allowance, regulations 4 and 7 shall have effect, where a claimant has an award of either of those benefits—

(a) which expires on 23rd February 1998, on 24th February 1998; or

(b) which expires after 23rd February 1998, on the day following the expiration of that award.

(3) For the purposes of paragraph (2) "claimant" means a person claiming the benefit concerned.

(4) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

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

Amendment of the Income Support (General) Regulations

2.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(**6**) shall be amended in accordance with paragraphs (2) to (9).

(2) In regulation 13(**7**) (circumstances in which persons in relevant education are to be entitled to income support)—

(a) in paragraph (2) for sub-paragraph (*dd*) there shall be substituted the following sub-paragraph—

"(dd) has ceased to live in accommodation provided for him by an authority under Part IV of the Children Order (support for children and their families) and is of necessity living away from his parents and any person acting in the place of his parents;";

(b) in paragraph (3)—

(i) in sub-paragraph (*a*) for head (i) there shall be substituted the following head—

"(i) for the purposes of paragraph (2)(*c*) and (*d*), a reference to an authority or voluntary organisation where the eligible person is being looked after by them under a relevant enactment, or to a person with whom the eligible person is placed by that authority or that voluntary organisation whether or not any payment is made by them, and";

(ii) in sub-paragraph (*a*)(ii) for "boarded out" there shall be substituted "placed";

(iii) after sub-paragraph (*b*) there shall be added the following sub-paragraph—

"(c) "an authority" has the same meaning as in Article 2 of the Children Order.".

(3) In regulation 16 (circumstances in which a person is to be treated as being or not being a member of the household)—

(a) in paragraph (4) for sub-paragraphs (*a*) to (*c*) there shall be substituted the following sub-paragraphs—

"(a) placed with the claimant or his partner by an authority under Article 27(2)(*a*) of the Children Order (provision of accommodation and maintenance by an authority for children whom it is looking after) or by a voluntary organisation under Article 75(1)(*a*) of that Order (provision of accommodation by voluntary organisations);

(b) placed with the claimant or his partner prior to adoption; or

(c) placed for adoption with the claimant or his partner pursuant to a decision under the Adoption Agencies Regulations (Northern Ireland) 1989(**8**).";

(b) in paragraph (5) for sub-paragraphs (*c*) to (*e*)(**9**) there shall be substituted the following sub-paragraphs—

"(c) is being looked after by an authority under a relevant enactment;

(d) has been placed with a person other than the claimant prior to adoption;

(e) has been placed for adoption pursuant to a decision under the Adoption Agencies Regulations (Northern Ireland) 1989;";

(**6**) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 No. 146, S.R. 1989 Nos. 249 and 366, S.R. 1990 No. 387, S.R. 1992 No. 147, S.R. 1994 No. 65 and S.R. 1996 Nos. 199 and 440
(**7**) Sub-paragraph (*dd*) was inserted by regulation 3 of S.R. 1992 No. 147
(**8**) S.R. 1989 No. 253
(**9**) Sub-paragraph (*e*) was amended by regulation 3(3)(*a*)(i) of S.R. 1990 No. 387

(c) in paragraph (8)(**10**)—

(i) after "this regulation" there shall be inserted—

"—

"an authority" has the same meaning as in Article 2 of the Children Order;";

(ii) in the definition of "relevant enactment" after "the Domestic Proceedings (Northern Ireland) Order 1980" there shall be inserted ", the Adoption (Northern Ireland) Order 1987(**11**)".

(4) In regulation 41(3)(**12**) (capital treated as income) for the words from "a Health and Social Services Board" to the end there shall be substituted "an authority, as defined in Article 2 of the Children Order, under Article 18, 35 or 36 of that Order (general duty of an authority to promote the welfare of children and powers to grant financial assistance to persons looked after or in, or formerly in, its care) shall be treated as income.".

(5) In Schedule 1B(**13**) (prescribed categories of person) in paragraph 2 for "boarded out by a Health and Social Services Board or an HSS trust" there shall be substituted "placed by an authority, as defined in Article 2 of the Children Order," and for "the Children and Young Persons Act (Northern Ireland) 1968" there shall be substituted "the Children Order".

(6) In Schedule 2 (applicable amounts) in paragraph 1A(**14**)—

(a) in sub-paragraph (1)(*b*)(ii) for "in the care of the Department under a relevant enactment and whilst in that care was not living with his parents or any close relative" there shall be substituted "being looked after by an authority pursuant to a relevant enactment which placed him with such person other than a close relative of his";

(b) in sub-paragraph (2)—

(i) for head (*b*) there shall be substituted the following head—

"(b) any reference to a person acting in place of a person's parents includes a reference to—

(i) where the person is being looked after by an authority or voluntary organisation which places him with a family, a relative of his, or some other suitable person, the person with whom the person is placed, whether or not any payment is made to him in connection with the placement, or

(ii) in any other case, any person with parental responsibility for the child, and for this purpose "parental responsibility" has the meaning it has in the Children Order by virtue of Article 6 of that Order;";

(ii) after head (*b*) there shall be added the following head—

"(c) "an authority" has the same meaning as in Article 2 of the Children Order.".

(7) In Schedule 4 (applicable amounts of persons in homes for persons in need and nursing homes) in paragraph 11(2)(*d*)(**15**) for the words from "a Health and Social Services Board" to the end there shall be substituted "an authority, as defined in Article 2 of the Children Order, under Article 21 of that Order (provision of accommodation for children: general); and".

(**10**) Paragraph (8) was amended by regulation 8(*c*) of S.R. 1996 No. 199
(**11**) S.I. 1987/2203 (N.I. 22)
(**12**) Paragraph (3) was amended by S.R. 1988 No. 146, S.R. 1989 No. 249 and S.R. 1994 No. 65
(**13**) Schedule 1B was inserted by S.R. 1996 No. 199 and paragraph 2 was amended by regulation 3 of S.R. 1996 No. 440
(**14**) Paragraph 1A was inserted by paragraph 4 of Schedule 2 to S.R. 1996 No. 199
(**15**) Paragraph 11(2)(*d*) was amended by paragraph 1(*k*) of Schedule 12 to S.R. 1994 No. 65

(8) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 25(1)(**16**) for heads (*a*) and (*b*) there shall be substituted the following heads —

"(a) in accordance with regulations made under Article 59A of the Adoption (Northern Ireland) Order 1987(**17**) (permitted allowances);

(b) in accordance with regulations made under section 57A of the Adoption Act 1976(**18**) (permitted allowances) or with a scheme approved by the Secretary of State under section 51 of the Adoption (Scotland) Act 1978(**19**) (schemes for payment of allowances to adopters);";

(b) for paragraph 26(**20**) there shall be substituted the following paragraph—

"**26.** Any payment made by—

(a) an authority to a person who is caring for a child by virtue of arrangements made under Article 27(2)(*a*) of the Children Order (provision of accommodation and maintenance by an authority for children whom it is looking after) or by a voluntary organisation under Article 75(1)(*a*) of that Order (provision of accommodation by voluntary organisations); or

(b) a training school, within the meaning of section 137 of the Children and Young Persons Act (Northern Ireland) 1968(**21**) (approval of schools), under paragraph 14(2) of Schedule 5 to that Act to a person who is caring for a child and with whom that child lives or is boarded out under paragraph 6, 7 or 8 of Schedule 5 to that Act(**22**).";

(c) in paragraph 27(**23**) for "a Health and Social Services Board or an HSS trust" there shall be substituted "an authority";

(d) in paragraph 28(**24**) for the words from "a Health and Social Services Board" to the end there shall be substituted "an authority under Article 18, 35 or 36 of the Children Order (general duty of an authority to promote the welfare of children or powers to grant financial assistance to persons looked after or in, or formerly in, its care).";

(e) after paragraph 28 there shall be inserted the following paragraph—

"**28A.** In paragraphs 26 to 28 "an authority" has the same meaning as in Article 2 of the Children Order.".

(9) In Schedule 10 (capital to be disregarded) in paragraph 17(**25**) for the words from "a Health and Social Services Board" to the end there shall be substituted "an authority, as defined in Article 2 of the Children Order, under Article 18, 35 or 36 of that Order (general duty of an authority to promote the welfare of children and powers to grant financial assistance to persons looked after or in, or formerly in, its care).".

(**16**) Paragraph 25(1) was substituted by regulation 4 of S.R. 1989 No. 366
(**17**) S.I. 1987/2203 (N.I. 22); Article 59A was inserted by paragraph 164 of Schedule 9 to the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))
(**18**) 1976 c. 36; section 57A was inserted by paragraph 25 of Schedule 10 to the Children Act 1989 (c. 41)
(**19**) 1978 c. 28
(**20**) Paragraph 26 was amended by paragraph 1(*l*) of Schedule 12 to S.R. 1994 No. 65
(**21**) 1968 c. 34 (N.I.); section 137 was amended by Schedule 18 to the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)) and Schedule 9 to the Children (Northern Ireland) Order 1995
(**22**) Paragraph 8 of Schedule 5 was amended by Article 6(2) of the Treatment of Offenders (Northern Ireland) Order 1989 (S.I. 1989/1344 (N.I. 15))
(**23**) Paragraph 27 was amended by paragraph 1(*l*) of Schedule 12 to S.R. 1994 No. 65
(**24**) Paragraph 28 was amended by S.R. 1988 No. 146, S.R. 1989 No. 249 and S.R. 1994 No. 65
(**25**) Paragraph 17 was amended by S.R. 1988 No. 146, S.R. 1989 No. 249 and S.R. 1994 No. 65

Amendment of the Housing Benefit (General) Regulations

3.—(1) The Housing Benefit (General) Regulations (Northern Ireland) 1987(**26**) shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 2(1) (interpretation)—

(a) after the definition of "course of study" there shall be inserted the following definitions—

""Crown property" means property held by Her Majesty in right of the Crown or by a government department or which is held in trust for Her Majesty for the purposes of a government department, except (in the case of an interest held by Her Majesty in right of the Crown) where the interest is under the management of the Crown Estate Commissioners;

"Crown Estate Commissioners" have the same meaning as in the Interpretation Act 1978(**27**);";

(b) in the definition of "young individual"(**28**)—

(i) in paragraph (*b*) after "1968" there shall be inserted "or who has ceased to be subject to a care order pursuant to Article 50(1)(*a*) of the Children Order";

(ii) for paragraph (*c*) there shall be substituted the following paragraph—

"(c) who has not attained the age of 22 years and was formerly provided with accommodation under Article 21 of the Children Order.".

(3) In regulation 15 (circumstances in which a person is to be treated as being or not being a member of the household)—

(a) in paragraph (3) for sub-paragraphs (*a*) to (*c*) there shall be substituted the following sub-paragraphs—

"(a) placed with the claimant or his partner by an authority, as defined in Article 2 of the Children Order, under Article 27(2)(*a*) of that Order (provision of accommodation and maintenance by an authority for children whom it is looking after) or by a voluntary organisation under Article 75(1)(*a*) of that Order (provision of accommodation by voluntary organisations);

(b) placed with the claimant or his partner prior to adoption, or

(c) placed for adoption with the claimant or his partner pursuant to a decision under the Adoption Agencies Regulations (Northern Ireland) 1989.";

(b) in paragraph (4) for sub-paragraphs (*a*) to (*c*) there shall be substituted the following sub-paragraphs—

"(a) is being looked after by an authority, as defined in Article 2 of the Children Order, under a relevant enactment;

(b) has been placed with a person other than the claimant prior to adoption, or

(c) has been placed for adoption pursuant to a decision under the Adoption Agencies Regulations (Northern Ireland) 1989.";

(c) in paragraph (6) at the end there shall be added ", the Adoption (Northern Ireland) Order 1987 and the Children Order.".

(**26**) S.R. 1987 No. 461; relevant amending regulations are S.R. 1989 Nos. 260 and 366, S.R. 1990 No. 297, S.R. 1994 Nos. 65 and 274, S.R. 1995 No. 89 and S.R. 1996 Nos. 181, 405 and 476

(**27**) 1978 c. 30

(**28**) The definition of "young individual" was inserted by regulation 2 of S.R. 1996 No. 181 and substituted by regulation 4(2)(*c*) of S.R. 1996 No. 405