STATUTORY RULES OF NORTHERN IRELAND

1996 No. 111

HOUSING; RATES

The Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1996

Made - - - -	*21st March 1996*
Coming into operation	*2nd April 1996*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1)(*d*), 129(2) to (4), 131(1) and 171(5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and sections 5(1)(*h*) and (*p*) and 61(1) to (3) of the Social Security Administration (Northern Ireland) Act 1992(**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 its consent is required, and after agreement by the Social Security Advisory Committee that proposals to make 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 Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1996 and shall come into operation on 2nd April 1996.

(2) In these Regulations "the principal Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**5**).

(3) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(**1**) 1992 c. 7
(**2**) 1992 c. 8
(**3**) *See* section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 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. 314, S.R. 1989 Nos. 125 and 260, S.R. 1990 Nos. 297, 345 and 442, S.R. 1992 Nos. 141, 444 and 549, S.R. 1993 Nos. 145, 149 and 381, S.R. 1994 No. 65 and S.R. 1995 Nos. 89 and 101
(**6**) 1954 c. 33 (N.I.)

Amendment of regulation 2 of the principal Regulations

2. In regulation 2(1) of the principal Regulations (interpretation), after the definition of "maternity leave"(**7**) there shall be inserted the following definition—

""maximum rent" means the amount to which the eligible rent is restricted in a case where regulation 11 (maximum rent) applies;".

Amendment of regulation 8 of the principal Regulations

3. In regulation 8(1)(*b*) of the principal Regulations (eligible housing costs)(**8**) for "regulation 10(3) (rent)" there shall be substituted "regulations 10(3), (6A) and (6B) (rent) and 11 (maximum rent)".

Amendment of regulation 9 of the principal Regulations

4. In regulation 9(3) of the principal Regulations (rates) the words "and to regulation 11 (restrictions on unreasonable payments)" shall be omitted.

Amendment of regulation 10 of the principal Regulations

5. In regulation 10 of the principal Regulations (rent)(**9**)—

(a) in paragraph (3) for "and to regulations 11 and 12 (restrictions on unreasonable payments and rent increases)" there shall be substituted "and to paragraphs (6A) and (6B) and regulations 11 (maximum rent) and 12 (restrictions on rent increases)";

(b) in paragraph (3)(*b*) after "Schedule 1" there shall be inserted "except in a case where an amount in respect of that ineligible charge has been deducted from a relevant rent as defined in regulation 11(16) and a maximum rent has been determined by reference to that relevant rent";

(c) after paragraph (6) there shall be added the following paragraphs—

"(6A) In no case shall the amount of a person's eligible rent as determined in accordance with paragraphs (1) to (5) exceed the amount of the maximum rent.

(6B) In any case where it appears to the Executive that in the particular circumstances of that case the eligible rent as determined in accordance with paragraphs (1) to (5) and (6A) is greater than it is reasonable to meet by way of housing benefit, the eligible rent shall be such lesser sum as seems to the Executive to be an appropriate rent in that particular case.".

Insertion of regulation 10A into the principal Regulations

6. After regulation 10 of the principal Regulations (rent) there shall be inserted the following regulation—

"**Determinations**

10A.—(1) Subject to paragraph (2), where in respect of a claim for rent allowance the Executive is determining a rent in respect of the tenancy of a dwelling it shall—

(a) make the determinations in accordance with Part I of Schedule 1A (determinations)(**10**), and

(**7**) Definition inserted by regulation 2(*c*) of S.R. 1993 No. 381
(**8**) Paragraph (1) was amended by regulation 2(*a*) of S.R. 1992 No. 444
(**9**) Paragraph (3) was amended by regulation 4 of S.R. 1993 No. 145
(**10**) Schedule 1A is inserted by regulation 14 of these Regulations

(b) comply with Part II of Schedule 1A when making the determinations (assumptions etc.).

(2) The Executive, on the first working day of each month, shall—

(a) make determinations in accordance with Part III of Schedule 1A (indicative rent levels), and

(b) comply with paragraph 7(2) of Part II of Schedule 1A (assumptions etc.) when making the determinations.

(3) No determination shall be made—

(a) under paragraph 3 or 4 of Schedule 1A if the tenancy is of residential accommodation, within the meaning of regulation 7(3)(**11**), or in a hostel, or

(b) for a tenancy under Schedule 1B (excluded tenancies)(**12**).

(4) This regulation shall apply as specified in Part V of Schedule 1A (special cases) in relation to—

(a) mooring charges payable for a houseboat;

(b) payments in respect of the site on which a caravan or a mobile home stands, or

(c) payments under a rental purchase agreement.".

Substitution of regulation 11 of the principal Regulations

7. For regulation 11 of the principal Regulations (restrictions on unreasonable payments) there shall be substituted the following regulation—

"**Maximum rent**

11.—(1) Where the Executive has made a determination in accordance with Schedule 1A (determination of rent payable) the maximum rent shall be determined in accordance with paragraphs (2) to (15).

(2) In a case where a relevant rent has been determined, but a local reference rent is not required, the maximum rent shall be that relevant rent.

(3) In a case where a local reference rent has been determined, the maximum rent shall not exceed twice that local reference rent.

(4) Subject to the limit specified in paragraph (3), in a case where both a local reference rent and a relevant rent has been determined, and—

(a) the relevant rent is higher than the local reference rent, the maximum rent shall be the local reference rent plus 50 per cent. of the amount by which the relevant rent exceeds the local reference rent;

(b) the local reference rent is higher than the relevant rent, the maximum rent shall be the relevant rent.

(5) Subject to the limit specified in paragraph (3), in a case where a local reference rent has been determined, but a relevant rent has not been determined and the reckonable rent is more than the local reference rent, the maximum rent shall be the local reference rent plus 50 per cent. of the amount by which that reckonable rent exceeds the local reference rent.

(6) In a case where—

(a) the Executive has determined a maximum rent in respect of a dwelling, and

(**11**) Regulation 7(3) was added by regulation 3(3) of S.R. 1990 No. 442 and substituted by regulation 3(*b*) of S.R. 1993 No. 149

(**12**) Schedule 1B is inserted by regulation 14 of these Regulations

(b) during the benefit period the reckonable rent in respect of that dwelling is reduced to a sum which is less than the reckonable rent at the time that maximum rent was determined,

then on review—

(i) the maximum rent shall not be reduced during that benefit period where that sum is not less than the maximum rent, and

(ii) the maximum rent shall be reduced for the remainder of that benefit period to an amount equal to that sum where that sum is less than the maximum rent.

(7) Subject to paragraph (8), in a case where—

(a) the Executive has made a determination under regulation 12A(1), and

(b) subsequent to that determination the reckonable rent for that dwelling is changed, then in determining a maximum rent in relation to a claim for benefit of a claimant who has a liability to make payments in respect of that dwelling, the Executive shall treat the relevant rent or, as the case may be, reckonable rent to be that determined in or, as the case may be, applicable to, that determination referred to in sub-paragraph (*a*).

(8) Paragraph (7) shall not apply in a case where the reckonable rent is reduced to a figure below the figure that would have been the maximum rent if that reckonable rent had not changed; and where this paragraph applies, the maximum rent shall be the reckonable rent, as so reduced.

(9) In a case where the claimant occupies a dwelling which is the same as that occupied by him at the date of death of any person to whom paragraph 14(*b*) to (*d*) applied or, had a claim been made, would have applied, the maximum rent shall be either—

(a) the maximum rent which applied before the death occurred, or

(b) in a case where there was no maximum rent, the reckonable rent due before the death occurred,

for a period of 12 months from the date of such a death.

(10) For the purposes of paragraph (9), a claimant shall be treated as occupying the dwelling if regulation 5(8) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)(**13**) is satisfied and for that purpose sub-paragraph (*b*) of that regulation shall be treated as if it were omitted.

(11) In any case where, pursuant to regulation 10(3) (non-eligible payments), the amount of a person's otherwise eligible rent falls to be lessened by any—

(a) deduction for fuel, or

(b) deduction for meals,

the maximum rent shall be that determined in accordance with paragraphs (1) to (11) less the amount of any such deductions.

(12) Subject to paragraph (13), where the Executive is satisfied that a person to whom paragraph (14) applies was able to meet the financial commitments for his dwelling when they were entered into, there shall be no maximum rent during the first 13 benefit weeks of the claimant's benefit period.

(13) Paragraph (12) shall not apply where a claimant was previously entitled to benefit in respect of a benefit period which fell wholly or partly less than 52 weeks before the commencement of his current benefit period.

(**13**) Paragraph (8) was amended by regulation 2(2)(*b*) of S.R. 1995 No. 101

(14) This paragraph applies to the following persons—

(a) the claimant;

(b) any member of his family;

(c) if the claimant is a member of a polygamous marriage, any partners of his and any child or young person for whom he or a partner is responsible and who is a member of the same household;

(d) subject to paragraph (15), any relative of the claimant or his partner who occupies the same dwelling as the claimant, whether or not they reside with him.

(15) Paragraph (14)(*d*) shall only apply to a relative who has no separate right of occupation of the dwelling which would enable him to continue to occupy it even if the claimant ceased his occupation of it.

(16) In this regulation—

"deduction for fuel" means any amount of a person's otherwise eligible rent which is an ineligible service charge by reason of and within the meaning of paragraph 4 of Schedule 1 (ineligible service charges);

"deduction for meals" means any amount of a person's otherwise eligible rent which is an ineligible service charge by reason of and within the meaning of paragraph 1(*a*)(i) of Schedule 1(**14**);

"local reference rent" means the rent determined in accordance with paragraph 4 of Schedule 1A;

"property-specific rent" means the rent determined under paragraph 1(2) of Schedule 1A except where a rent determination has been made under paragraph 3 of that Schedule, when it shall be the latter determination;

"reckonable rent" means those payments, which a person is liable to make in respect of the dwelling which he occupies as his home, and which are eligible, or would, but for this regulation, be eligible for housing benefit plus the amount of any deduction for fuel or deduction for meals, as the case may be, which that person is liable to pay;

"relevant rent" means—

(a) in a case where both a property-specific rent and a size-related rent, have been determined, whichever rent is the lower of the two, or

(b) in a case where only a property-specific rent or a size-related rent, as the case may be, has been determined, that rent,

less any amount of such a rent which the Executive has determined pursuant to paragraph 5 of Schedule 1A is attributable to the provision of services which are ineligible to be met by housing benefit, and

"size-related rent" means the rent determined by the Executive under paragraph 2(2) of Schedule 1A.".

Amendment of regulation 12 of the principal Regulations

8. In regulation 12(2) of the principal Regulations (restrictions on rent increases)(**15**) for "regulation 11(7)" there shall be substituted "regulation 11(14)".

(**14**) Paragraph 1(*a*)(i) was amended by regulation 7(*a*) of S.R. 1988 No. 314

(**15**) Paragraph (2) was inserted by regulation 4(*b*) of S.R. 1989 No. 125