1995 No. 129

HOUSING; RATES

The Housing Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 1995

Made . . . . . 28th March 1995

Coming into operation in accordance with regulation 1(1)

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) and (4), 131(1) and 132(3) and (4)(*a*) and (*b*) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**), section 120(1) and (2) of the Social Security Administration (Northern Ireland) Act 1992(**b**) and Article 14(1) and (3) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994(**c**) and of all other powers enabling it in that behalf, with the consent of the Department of the Environment for Northern Ireland(**d**) so far as relates to matters with regard to which such consent is required, and after agreement by the Social Security Advisory Committee that certain proposals to make these Regulations should not be referred to it(**e**), and by this Statutory Rule which contains regulations consequential on, and which is otherwise made before the end of the period of 6 months beginning with the coming into operation of, the Social Security (Incapacity for Work) (Northern Ireland) Order 1994(**f**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 1995 and shall come into operation as follows—

(*a*) regulations 1 and 2 on 1st April 1995;

(*b*) regulations 5 and 9—

(i) in any case to which paragraph (2) applies, on 1st April 1995, and

(ii) in any other case, on 3rd April 1995;

(*c*) regulations 10 and 11 on 13th April 1995, and

(*d*) regulations 3, 4, 6, 7, 8 and 12 on 17th April 1995.

(a) 1992 c. 7
(b) 1992 c. 8
(c) S.I. 1994/1898 (N.I. 12)
(d) *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))
(e) *See* section 150(1)(*b*) of the Social Security Administration (Northern Ireland) Act 1992
(f) *See* section 150(5)(*b*) of the Social Security Administration (Northern Ireland) Act 1992

(2) This paragraph applies in any case where—

(*a*) rent is payable at intervals of one month or any other interval which is not a week or a multiple thereof, or

(*b*) payments by way of rates are not made together with payments of rent at weekly intervals or multiples thereof.

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

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

Amendment of regulation 2 of the principal Regulations

2. In regulation 2(1) of the principal Regulations (interpretation) after the definition of "the Registered Homes Order"(**c**) there shall be inserted the following definition—

" "adjudication officer" means an officer appointed in accordance with section 36(1) of the Social Security Administration (Northern Ireland) Act 1992;".

Amendment of regulation 11 of the principal Regulations

3. In regulation 11(3) of the principal Regulations (restrictions on unreasonable payments) after sub-paragraph (*b*) there shall be inserted the following sub-paragraph—

"(*bb*) is treated as capable of work in accordance with regulations made under section 167E of the Contributions and Benefits Act (incapacity for work: disqualification, etc)(**d**), or".

Amendment of regulation 21A of the principal Regulations

4. In regulation 21A of the principal Regulations (treatment of child care charges)(**e**)—

(*a*) in paragraph (4)—

(i) after sub-paragraph (*a*) there shall be inserted the following sub-paragraphs—

"(*aa*) the claimant's applicable amount would include a disability premium or a higher pensioner premium on account of the other member's incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations made under section 167E of the Contributions and Benefits Act (incapacity for work: disqualification, etc);

(**a**) S.R. 1987 No. 461; relevant amending regulations are S.R. 1988 No. 424, S.R. 1989 No. 125, S.R. 1990 Nos. 136 and 297, S.R. 1992 Nos. 6 and 549, S.R. 1993 No. 149 and S.R. 1994 Nos. 233, 274 and 335

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

(**c**) Definition inserted by regulation 3(2) of S.R. 1993 No. 149

(**d**) Section 167E was inserted by Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(**e**) Regulation 21A was inserted by regulation 2(3) of S.R. 1994 No. 274

(*ab*) the claimant (within the meaning of regulation 2(1)) is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part XIIA of the Contributions and Benefits Act (incapacity for work)(**a**) for a continuous period of not less than 196 days; and for this purpose any 2 or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;", and

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

"(i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the Contributions and Benefits Act(**b**);", and

(*b*) after paragraph (4) there shall be added the following paragraph—

"(5) For the purposes of paragraph (4), once paragraph (4)(*ab*) applies to the claimant, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.".

Amendment of regulation 35 of the principal Regulations

5. In regulation 35 of the principal Regulations (notional income)—

(*a*) after paragraph (4) there shall be inserted the following paragraph—

"(4A) Where a claimant is in receipt of sickness benefit or invalidity pension up to 12th April 1995, the appropriate authority shall treat the claimant as possessing incapacity benefit—

(*a*) in a case in which the claimant's weekly amount of eligible rent or, as the case may be, rates falls to be calculated in accordance with regulation 69(2)(*b*) or, as the case may be, (3)(*b*) (calculation of weekly amounts), from and including 1st April 1995 to 12th April 1995;

(*b*) in any other case, from and including 3rd April 1995 to 12th April 1995,

at the rate at which incapacity benefit is payable to him from and including 13th April 1995.", and

(*b*) in paragraph (6) for "paragraphs (1) to (4)" there shall be substituted "paragraphs (1) to (4A)".

(**a**) Part XIIA was inserted by Article 7 of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(**b**) Paragraph 2 of Part I of Schedule 4 was substituted by Article 4(2) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

Amendment of regulation 48A of the principal Regulations

6. In regulation 48A of the principal Regulations (full-time students to be treated as not liable to make payments in respect of a dwelling)(**a**)—

(*a*) in paragraph (2) after sub-paragraph (*b*) there shall be inserted the following sub-paragraphs—

"(*ba*) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 167E of the Contributions and Benefits Act (incapacity for work: disqualification, etc);

(*bb*) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part XIIA of the Contributions and Benefits Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any 2 or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;", and

(*b*) after paragraph (2) there shall be inserted the following paragraph—

"(2A) For the purposes of paragraph (2), once paragraph (2)(*bb*) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.".

Amendment of regulation 51 of the principal Regulations

7. In regulation 51 of the principal Regulations (eligible rent)—

(*a*) in paragraph (2)(*c*)—

(i) "either" shall be omitted;

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

"(iii) his applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 167E of the Contributions and Benefits Act (incapacity for work: disqualification, etc), or

(iv) he is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part XIIA of the Contributions and Benefits Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any 2 or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period, or", and

(**a**) Regulation 48A was inserted by regulation 3(6) of S.R. 1990 No. 297