1995 No. 101

HOUSING; RATES; SOCIAL SECURITY

The Housing Benefit and Income Support (General) (Amendment) Regulations (Northern Ireland) 1995

Made . . . . . 16th 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)(*a*) and (*d*), 131(1), 133(2)(*h*) and (*i*) and 171(5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**) and section 5(1)(*l*) of the Social Security Administration (Northern Ireland) Act 1992(**b**) and of all other powers enabling it in that behalf, with the consent of the Department of the Environment for Northern Ireland(**c**) so far as relates to matters with regard to which such consent is required, and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(**d**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit and Income Support (General) (Amendment) Regulations (Northern Ireland) 1995 and shall come into operation as follows—

(*a*) for the purposes of this regulation and regulation 4, on 1st April 1995;

(*b*) for the purposes of regulation 2—

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

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

(*c*) for the purposes of regulation 3, on 10th April 1995.

(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—

(**a**) 1992 c. 7
(**b**) 1992 c. 8
(**c**) *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))
(**d**) *See* section 150(1)(*b*) of the Social Security Administration (Northern Ireland) Act 1992

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

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**b**).

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

Amendment of regulation 5 of the Housing Benefit Regulations

2.—(1) The Housing Benefit Regulations shall be amended in accordance with paragraph (2).

(2) In regulation 5 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—

(*a*) after paragraph (7A)(**d**) there shall be inserted the following paragraphs—

"(7B) This paragraph shall apply to a person who enters residential accommodation—

(*a*) for the purpose of ascertaining whether the accommodation suits his needs;

(*b*) with the intention of returning to the dwelling which is normally occupied by him as his home should, in the event, the residential accommodation prove not to suit his needs, and

(*c*) while the part of the dwelling which is normally occupied by him as his home is not let or, as the case may be, sublet.

(7C) A person to whom paragraph (7B) applies shall be treated as if he is occupying the dwelling he normally occupies as his home for a period not exceeding, subject to an overall limit of 52 weeks on the absence from that home, 13 weeks beginning from (and including) the first day he enters a residential accommodation.";

(*b*) in paragraph (8)—

(i) at the beginning there shall be inserted "Subject to paragraph (8C),";

(ii) for "a period not exceeding 52 weeks" there shall be substituted "a period not exceeding 13 weeks beginning from (and including) the first day of that absence from the home";

(iii) in sub-paragraph (*c*) for the words from "52 weeks" to the end there shall be substituted "13 weeks.";

(*c*) after paragraph (8A)(**e**) there shall be inserted the following paragraphs—

(**a**) S.R. 1987 No. 461; relevant amending regulations are S.R. 1990 No. 297, S.R. 1993 Nos. 145 and 149 and S.R. 1995 No. 89

(**b**) S.R. 1987 No. 459; relevant amending regulations are S.R. 1993 No. 149

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

(**d**) Paragraph (7A) was inserted by regulation 3 of S.R. 1993 No. 145

(**e**) Paragraph (8A) was inserted by S.R. 1995 No. 89

"(8B) This paragraph shall apply to a person who is temporarily absent from the dwelling he normally occupies as his home ("absence"), if—

(*a*) he intends to return to occupy the dwelling as his home;

(*b*) while the part of the dwelling which is normally occupied by him has not been let or, as the case may be, sublet;

(*c*) he is—

(i) detained in custody on remand pending trial or, as a condition of bail, required to reside in a hostel or, as the case may be, detained pending sentence upon conviction;

(ii) resident in a hospital or similar institution as a patient;

(iii) undergoing or, as the case may be, his partner or his dependant child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;

(iv) following, in the United Kingdom or elsewhere, a training course;

(v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere;

(vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;

(vii) a person who is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;

(viii) a student to whom paragraph (3) or (5)(*b*) or regulation 48A(1)(**a**) (circumstances in which certain students are treated as not liable to make payments in respect of a dwelling) does not apply;

(ix) a person who is receiving care provided in residential accommodation other than a person to whom paragraph (7B) applies, or

(x) a person who has left the dwelling he occupies as his home through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned, and to whom paragraph (5)(*a*) or (7A) does not apply, and

(*d*) the period of his absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

(8C) A person to whom paragraph (8B) applies shall be treated as occupying the dwelling he normally occupies as his home during any period of absence not exceeding 52 weeks beginning from (and including) the first day of that absence.";

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