1994 No. 335

HOUSING: RATES

The Housing Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 1994

Made	*31st August 1994*
Coming into operation . .	*3rd October 1994*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1)(*d*), 131(1) and (6) and 132(3) and (4)(*a*) and (*b*) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**) and sections 5(1)(*q*), 61 and 120(1) and (2) 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 (Miscellaneous Amendments) Regulations (Northern Ireland) 1994 and shall come into operation on 3rd October 1994.

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

(3) The Interpretation Act (Northern Ireland) 1954(**f**) 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)—

(*a*) at the end of the definition of "employed earner" there shall be added "and also includes a person who is in receipt of a payment which is payable under any statute of the Parliament of the United Kingdom

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(**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
(**e**) S.R. 1987 No. 461; relevant amending regulations are S.R. 1988 No. 424, S.R. 1990 Nos. 136 and 345, S.R. 1991 Nos. 176 and 337, S.R. 1992 Nos. 6, 141 and 404 and S.R. 1993 Nos. 145 and 218
(**f**) 1954 c. 33 (N.I.)

extending solely to Great Britain and which corresponds to statutory sick pay or statutory maternity pay'';

(*b*) in the definition of ''person affected'' for ''any person (including the appropriate authority) whose rights,'' there shall be substituted—

''a person who is—

(*a*) a claimant;

(*b*) the appropriate authority;

(*c*) the landlord, in the case of a determination made under regulation 93 or 94, or

(*d*) a person from whom the appropriate authority determines that an overpayment is recoverable in accordance with Part XIII (overpayments),

and whose rights,''.

Amendment of regulation 29 of the principal regulations

3. In regulation 29 of the principal regulations (calculation of net earnings of employed earners)—

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

''(*b*) one half of any sum paid by the claimant by way of a contribution towards an occupational pension scheme;

(*c*) one half of the amount calculated in accordance with paragraph (3B) in respect of any qualifying contribution payable by the claimant, and

(*d*) where those earnings include a payment which is payable under any statute of the Parliament of the United Kingdom extending solely to Great Britain and which corresponds to statutory sick pay or statutory maternity pay, any amount deducted from those earnings by way of any contributions which are payable under any statute of the Parliament of the United Kingdom extending solely to Great Britain and which correspond to primary Class 1 contributions under the Contributions and Benefits Act.'';

(*b*) after paragraph (3) there shall be inserted the following paragraphs—

''(3A) In this regulation ''qualifying contribution'' means any sum which is payable periodically as a contribution towards a personal pension scheme.

(3B) The amount in respect of any qualifying contribution shall be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying contribution shall be determined—

(*a*) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;

(*b*) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.'';

(*c*) in paragraph (4)(**a**)—

(i) for ''regulation 22(2)'' there shall be substituted ''regulation 22(2)(*b*)'';

(ii) in sub-paragraph (*a*) ''and, if appropriate, the basic rate'' shall be omitted;

(iii) for sub-paragraph (*c*) there shall be substituted the following sub-paragraph—

''(*c*) one half of any sum which would be payable by the claimant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.''.

Amendment of regulation 30 of the principal regulations

4. In regulation 30 of the principal regulations (earnings of self-employed earners)(**b**) for paragraph (2) there shall be substituted the following paragraph—

''(2) ''Earnings'' shall not include any payment to which paragraph 26 or 27 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) refers.''.

Amendment of regulations 32 and 35 of the principal regulations

5. In regulations 32(1)(**c**) and 35(7)(*a*)(**d**) of the principal regulations (deduction of tax and contributions for self-employed earners and notional income) ''and, if appropriate, the basic rate'' shall be omitted.

Amendment of regulation 77 of the principal regulations

6. In regulation 77 of the principal regulations (notification of determinations)(**e**)—

(*a*) in paragraph (4)—

(i) after ''A person'' there shall be inserted ''affected'';

(ii) for ''request in writing'' there shall be substituted '', by notice in writing signed by him, request'';

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

''(4A) For the purposes of paragraph (4), where a person affected who requests a written statement is not an individual, the notice in writing referred to in that paragraph shall be signed by a person over the age of 18 who is authorised to act on that person's behalf.''.

(**a**) Paragraph (4)(*a*) was amended by regulation 5 of S.R. 1992 No. 404
(**b**) Regulation 30(2) was added by regulation 5(*b*) of S.R. 1993 No. 145
(**c**) Regulation 32(1) was amended by regulation 6 of S.R. 1992 No. 404
(**d**) Regulation 35(7) was amended by regulation 7 of S.R. 1992 No. 404
(**e**) Regulation 77(4) was inserted by regulation 9 of S.R. 1992 No. 141

Amendment of regulation 79 of the principal regulations

7. In regulation 79 of the principal regulations (review of determinations)(**a**)—

(*a*) in paragraph (2) for "if a person makes written representations" there shall be substituted "if a person affected makes written representations signed by him";

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

"(2A) For the purposes of paragraph (2), where the person affected who makes such representations is not an individual, those representations shall be signed by a person over the age of 18 who is authorised to act on that person's behalf.".

Amendment of regulation 81 of the principal regulations

8. In regulation 81 of the principal regulations (further review of determinations)—

(*a*) in paragraph (1)—

(i) after "A person" there shall be inserted "affected";

(ii) after "written notice" there shall be inserted "signed by him";

(*b*) after paragraph (1) there shall be inserted the following paragraph—

"(1A) For the purposes of paragraph (1), where a person affected who requests a further review is not an individual, the written notice referred to in that paragraph shall be signed by a person over the age of 18 who is authorised to act on that person's behalf.".

Amendment of regulation 86 of the principal regulations

9. In regulation 86 of the principal regulations (setting aside of determinations and decisions on certain grounds)—

(*a*) in paragraph (2) after "shall be made in writing" there shall be inserted "signed in accordance with paragraph (2A)";

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

"(2A) For the purposes of paragraph (2) the application shall be signed by the person affected who makes the application or, where that person is not an individual, a person over the age of 18 who is authorised to act on that person's behalf.".

Amendment of regulation 94 of the principal regulations

10. In regulation 94 of the principal regulations (circumstances in which payment may be made to a landlord or the Department of the Environment) after paragraph (2) there shall be added the following paragraph—

"(3) In this regulation "landlord" has the same meaning as in regulation 93.".

(**a**) Regulation 79(2) was amended by regulation 11(*a*) of S.R. 1992 No. 141 and regulation 2(2)(*c*) of S.R. 1993 No. 218

Amendment of Schedule 2 to the principal regulations

11. In Schedule 2 to the principal regulations (applicable amounts)—

(*a*) in paragraph 12(**a**)—

(i) in sub-paragraph (1)(*a*)(i) for the words from "section 15" to "of that Act" there shall be substituted "Part II of the Contributions and Benefits Act (contributory benefits) or severe disablement allowance under Part III of that Act (non-contributory benefits)";

(ii) in sub-paragraph (1)(*a*)(ii) for "section 15 of the principal Act" there shall be substituted "Part II of the Contributions and Benefits Act", and for "retirement pension under the principal Act" there shall be substituted "retirement pension under that Act";

(*b*) in paragraph 13 after sub-paragraph (3) there shall be added the following sub-paragraph—

"(4) For the purposes of sub-paragraph (2)(*a*)(iii) and (*b*), no account shall be taken of an award of invalid care allowance to the extent that payment of such an award is backdated for a period before the date on which the award is made.".

Amendment of Schedule 4 to the principal regulations

12. In Schedule 4 to the principal regulations (sums to be disregarded in the calculation of income other than earnings)—

(*a*) in paragraph 18 for head (i) there shall be substituted the following head—

"(i) where, or in so far as, section 369 of the Income and Corporation Taxes Act 1988 (mortgage interest payable under deduction of tax)(**b**) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;";

(*b*) after paragraph 55(**c**) there shall be added the following paragraphs—

"56. Any supplementary pension under Article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows)(**d**).

57. In the case of a pension awarded at the supplementary rate under Article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows)(**e**), the sum specified in paragraph 1(*c*) of Schedule 4 to that Scheme.

(**a**) Paragraph 12(1) was amended by regulation 17(*a*)(i) of S.R. 1988 No. 424 and regulation 11(4)(*b*) of S.R. 1992 No. 6

(**b**) 1988 c. 1; section 369(1A) was inserted by section 81(3) of the Finance Act 1994 (c. 9)

(**c**) Paragraph 55 was added by regulation 11(*c*) of S.R. 1994 No. 88

(**d**) S.I. 1983/883; Article 29(1A) was inserted by S.I. 1994/1906

(**e**) S.I. 1983/686; Article 27(3) and paragraph 1(*c*) of Schedule 4 were added by S.I. 1994/2021