1993 No. 381

HOUSING; RATES

The Housing Benefit (General) (Amendment No. 3) Regulations (Northern Ireland) 1993

Made . . . . . *8th September 1993*

Coming into operation . . *4th October 1993*

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), 132(1), (3) and (4)(*a*), (*b*) and (*d*) and 133(2)(*d*)(i) and (1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**) and of all other powers enabling it in that behalf, with the consent of the Department of the Environment for Northern Ireland(**b**) 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 to make these regulations should not be referred to it(**c**), hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Housing Benefit (General) (Amendment No. 3) Regulations (Northern Ireland) 1993 and shall come into operation on 4th October 1993.

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

(3) The Interpretation Act (Northern Ireland) 1954(**e**) 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*) after the definition of "the Order" there shall be inserted the following definition—

" "the Contributions and Benefits Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;";

(*b*) after the definition of "course of study" there shall be inserted the following definition—

" "date of claim" means the date on which the claim is made, or treated as made, for the purposes of regulation 72 (time and manner in which claims are to be made)";

(**a**) 1992 c. 7

(**b**) *See* Article 3(3) of the Social Security (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8))

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

(**d**) S.R. 1987 No. 461; relevant amending regulations are S.R. 1988 No. 424, S.R. 1989 No. 125, S.R. 1990 No. 297, S.R. 1991 Nos. 47, 337 and 520, S.R. 1992 No. 6 and S.R. 1993 Nos. 145 and 218

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

(*c*) after the definition of "married couple" there shall be inserted the following definition—

" "maternity leave" means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Articles 15 and 28 to 30 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976(**a**);".

Amendment of regulation 4 of the principal regulations

3. In regulation 4 of the principal regulations (remunerative work)—

(*a*) in paragraph (1) for "paragraphs (2) to (5)" there shall be substituted "paragraphs (2) to (6)";

(*b*) after paragraph (5) there shall be added the following paragraph—

"(6) A person shall not be treated as engaged in remunerative work on any day on which the person is on maternity leave or is absent from work because he is ill.".

Amendment of regulation 15 of the principal regulations

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

(*a*) in paragraph (1) for "where any of them is absent from the dwelling occupied as his home" there shall be substituted "notwithstanding that any of them is temporarily living away from the other members of his family";

(*b*) for paragraph (2) there shall be substituted the following paragraph—

"(2) Paragraph (1) shall not apply to a person who is living away from the other members of his family where—

(*a*) that person does not intend to resume living with the other members of his family, or

(*b*) his absence from the other members of his family is likely to exceed 52 weeks, unless there are exceptional circumstances (for example where the person is in hospital or otherwise has no control over the length of his absence) and the absence is unlikely to be substantially more than 52 weeks.".

(**a**) S.I. 1976/2147 (N.I. 28); Article 15 was amended by paragraph 38 of Schedule 7 to the Nurses, Midwives and Health Visitors Act 1979 (c. 36), Article 13(1) and (2) of and Schedule 3 to the Industrial Relations (Northern Ireland) Order 1982 (S.I. 1982/528 (N.I. 8)) and paragraph 48 of Schedule 9 and Schedule 10 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)); Article 28 was amended by paragraph 15 of Schedule 5 to the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)); Article 29 was amended by Article 13(3) of the Industrial Relations (Northern Ireland) Order 1982 and Article 30 was amended by Schedule 2 to the Industrial Relations (Northern Ireland) Order 1982

Amendment of regulation 16 of the principal regulations

5. In regulation 16(*b*) of the principal regulations (applicable amounts) for ''except where otherwise provided'' there shall be substituted ''except as provided in regulation 36(5)(**a**) (modifications in respect of child and young person)''.

Amendment of regulation 17 of the principal regulations

6. In regulation 17(*c*) of the principal regulations (polygamous marriages) for ''except where otherwise provided'' there shall be substituted '', except as provided in regulation 36(5) (modifications in respect of child and young person)''.

Amendment of regulation 23 of the principal regulations

7. In regulation 23(1) of the principal regulations (average weekly earnings of self-employed earners) for ''52 weeks'' there shall be substituted ''a year''.

Amendment of regulation 28 of the principal regulations

8. In regulation 28(1) of the principal regulations (earnings of employed earners)—

(*a*) for sub-paragraphs (*h*) and (*i*) there shall be substituted the following sub-paragraphs—

''(*h*) any such sum as is referred to in section 112 of the Contributions and Benefits Act (certain sums to be earnings);

(*i*) any statutory sick pay or statutory maternity pay, or a corresponding payment under any statute of the Parliament of the United Kingdom extending solely to Great Britain;'';

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

''(*k*) any remuneration paid by or on behalf of an employer to the claimant who for the time being is on maternity leave or is absent from work because he is ill.''.

Amendment of regulation 32 of the principal regulations

9. In regulation 32(2) of the principal regulations (deduction of tax and contributions for self-employed earners) for sub-paragraphs (*a*) and (*b*) there shall be substituted the following sub-paragraphs—

''(*a*) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the Contributions and Benefits Act at the rate applicable at the date of claim except where the claimant's chargeable income is less than the amount specified in section 11(4) of that Act (small earnings exception) for the tax year in which the date of claim falls; but if the assessment period is less than a year, the amount specified for that tax year shall be reduced pro rata; and

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(**a**) Added by reg. 11(*c*) of these regulations