1990 No. 442

HOUSING; RATES

The Housing Benefit (General) (Amendment No. 4) Regulations (Northern Ireland) 1990

Made . . . . . *17th December 1990*

Coming into operation . . *14th January 1991*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 21(1)(*c*), (8) and (12)(*h*) and (*i*) of the Social Security (Northern Ireland) Order 1986(**a**) and of all other powers enabling it in that behalf, and with the consent of the Department of the Environment(**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. 4) Regulations (Northern Ireland) 1990 and shall come into operation on 14th January 1991.

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

Amendment of regulation 6 of the principal regulations

2. In regulation 6 of the principal regulations (circumstances in which a person is to be treated as liable to make payments in respect of a dwelling) at the beginning there shall be inserted "Subject to regulation 7 (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling),".

Amendment of regulation 7 of the principal regulations

3. In regulation 7 of the principal regulations (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling)—

(*a*) the existing provision shall be numbered as paragraph (1);

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

(a) S.I. 1986/1888 (N.I. 18); Article 81(1) provides for section 155(1) to (3A) of the Social Security (Northern Ireland) Act 1975 (c. 15) (extent of powers) to apply to the enabling provisions under which these regulations are made; section 155(3A) was inserted by Article 63(1)

(b) *See* Article 81(5) of the Social Security (Northern Ireland) Order 1986

(c) *See* Article 62(1)(*b*) of the Social Security (Northern Ireland) Order 1986

(d) S.R. 1987 No. 461; the relevant amending regulations are S.R. 1990 No. 297

"(*e*) a person, except one to whom paragraph (2) applies, who is in residential accommodation in so far as such payments are payments by way of rent.

(2) This paragraph applies to a person who—

(*a*) is in remunerative work;

(*b*) is liable to make payments in respect of the dwelling to a close relative with whom he does not reside and the tenancy or other agreement between them is on a commercial basis;

(*c*) was or became entitled immediately before 30th October 1990 to housing benefit in respect of residential accommodation; or

(*d*) became or becomes entitled to housing benefit in respect of such accommodation on or after that date but only if the claim was made or, as the case may be, the appropriate authority is satisfied that the claim was sent or delivered to the appropriate office or designated office in accordance with regulation 72(4) (time and manner in which claims are to be made), before that date.

(3) In this regulation "residential accommodation" means accommodation which is provided by an establishment—

(*a*) registered under Article 35 of, and Schedule 5 to, the Health and Personal Social Services (Northern Ireland) Order 1972(**a**) and which is a home for persons in need within the meaning of regulation 19(2) of the Income Support (General) Regulations (Northern Ireland) 1987(**b**);

(*b*) in premises registered under Part I of the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971(**c**);

(*c*) in any premises used for the reception of such persons or the provision of such nursing or services as is mentioned in section 10 of the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971; or

(*d*) in respect of which—

(i) a person has been registered under the Health and Personal Social Services (Northern Ireland) Order 1972 or, as the case may be, under the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971 and which has ceased to be a home for persons in need within the meaning of that Order and regulation 19(2) of the Income Support (General) Regulations (Northern Ireland) 1987 or, as the case may be, a nursing home within the meaning of that Act, and

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(**a**) S.I. 1972/1265 (N.I. 14)

(**b**) S.R. 1987 No. 459; the relevant amending regulations are S.R. 1988 No. 318

(**c**) 1971 c. 32 (N.I.); Part I was amended by paragraphs 96 to 100 of Schedule 16 to, and Schedule 18 to, the Health and Personal Social Services (Northern Ireland) Order 1972, Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1978 (S.I. 1978/1907 (N.I. 26)), paragraphs 16 to 18 of Schedule 7 to, and Schedule 8 to, the Nursing, Midwives and Health Visitors Act 1979 (c. 36), Articles 3 and 4 of the Nursing Homes and Nursing Agencies (Northern Ireland) Order 1985 (S.I. 1985/1775 (N.I. 19)) and Part II of Schedule 5 to the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4))