1990 No. 345

HOUSING; RATES

The Housing Benefit (General) (Amendment No. 3) Regulations (Northern Ireland) 1990

Made . . . . . 25th September 1990

Coming into operation . . 1st October 1990

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(1)(*c*), 22(6)(*b*) and 23(1), (8), (9)(*a*) and (*b*) of the Social Security (Northern Ireland) Order 1986(**a**) and of all other powers enabling it in that behalf, 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. 3) Regulations (Northern Ireland) 1990 and shall come into operation on 1st October 1990.

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

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation) after the definition of "close relative" there shall be inserted the following definition—

" "community charge" means a community charge under Part II of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(**e**) or Part I of the Local Government Finance Act 1988(**f**);".

Amendment of regulation 3 of the principal regulations

3. In regulation 3(2) of the principal regulations (definition of non-dependant) for sub-paragraph (*e*) there shall be substituted the following sub-paragraph—

(**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. 1988 Nos. 117 and 424, S.R. 1989 No. 125 and S.R. 1990 Nos. 33 and 72

(**e**) 1987 c. 47

(**f**) 1988 c. 41

"(*e*) subject to paragraph (3)—

(i) any person who is liable to make payments on a commercial basis to the claimant or the claimant's partner in respect of the occupation of the dwelling,

(ii) any person to whom or to whose partner the claimant or the claimant's partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling, or

(iii) any other member of the household of the person to whom or to whose partner the claimant or the claimant's partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling;".

Amendment of regulation 35 of the principal regulations

4. In regulation 35(3)(*a*) of the principal regulations (notional income) after "eligible rent or rates or both," there shall be inserted "or community charge".

Amendment of regulation 43 of the principal regulations

5. In regulation 43 of the principal regulations (notional capital)—

(*a*) in paragraph (1) at the end there shall be added "except to the extent that that capital is reduced in accordance with regulation 43A (diminishing notional capital rule)";

(*b*) in paragraph (3)(*a*) after "eligible rent or rates or both," there shall be inserted "or community charge".

Insertion of regulation 43A in the principal regulations

6. After regulation 43 of the principal regulations (notional capital) there shall be inserted the following regulation—

"*Diminishing notional capital rule*

43A.—(1) Where a claimant is treated as possessing capital under regulation 43(1) (notional capital), the amount which he is treated as possessing—

(*a*) in the case of a week that is subsequent to—

(i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied, or

(ii) a week which follows that relevant week and which satisfies those conditions,

shall be reduced by the amount determined under paragraph (3);

(*b*) in the case of a week in respect of which paragraph (1)(*a*) does not apply but where—

(i) that week is a week subsequent to the relevant week, and

(ii) that relevant week is a week in which the condition in paragraph (4) is satisfied,

shall be reduced by the amount determined under paragraph (4).

(2) This paragraph applies to a benefit week where the claimant satisfies the conditions that—

(*a*) he is in receipt of housing benefit; and

(*b*) but for regulation 43(1), he would have received an additional amount of housing benefit in that benefit week.

(3) In a case to which paragraph (2) applies, the amount of the reduction for the purposes of paragraph (1)(*a*) shall be equal to the additional amount to which paragraph (2)(*b*) refers.

(4) Subject to paragraph (5), for the purposes of paragraph (1)(*b*) the condition is that the claimant would have been entitled to housing benefit in the relevant week, but for regulation 43(1), and in such a case the amount of the reduction shall be the amount of housing benefit to which the claimant would have been entitled in the relevant week but for regulation 43(1).

(5) The amount determined under paragraph (4) shall be re-determined under that paragraph if the claimant makes a further claim for housing benefit and the conditions in paragraph (6) are satisfied, and in such a case—

(*a*) paragraph (4) shall apply as if for "relevant week" in both places where those words appear there were substituted "relevant subsequent week"; and

(*b*) subject to paragraph (7), the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.

(6) The conditions are that—

(*a*) a further claim is made 26 or more weeks after—

(i) the date on which the claimant made a claim for housing benefit in respect of which he was first treated as possessing the capital in question under regulation 43(1),

(ii) in a case where there has been at least one re-determination in accordance with paragraph (5), the date on which he last made a claim for housing benefit which resulted in the weekly amount being re-determined, or

(iii) the date on which he last ceased to be entitled to housing benefit,

whichever last occurred; and

(*b*) the claimant would have been entitled to housing benefit but for regulation 43(1).

(7) The amount as re-determined pursuant to paragraph (5) shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.

(8) For the purposes of this regulation—

"relevant week" means the benefit week in which the capital in question of which the claimant has deprived himself within the meaning of regulation 43(1)—

(*a*) was first taken into account for the purpose of determining his entitlement to housing benefit; or

(*b*) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to housing benefit on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, housing benefit,

and where more than one benefit week is identified by reference to paragraphs (*a*) and (*b*) the later or latest such benefit week;

"relevant subsequent week" means the benefit week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.".

Amendment of regulation 61 of the principal regulations

7. In regulation 61 of the principal regulations (maximum housing benefit) "or boarders" shall be omitted.

Amendment of regulation 63 of the principal regulations

8. In regulation 63(7) of the principal regulations (non-dependant deductions) after sub-paragraph (*c*) there shall be added the following—

"or

(*d*) he is a full-time student and during a recognised summer vacation appropriate to his course he is not in remunerative work.".

Amendment of Schedule 2 to the principal regulations

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

(*a*) in paragraph 4 for "8 to 14" there shall be substituted "8 to 14ZA";

(*b*) in paragraph 6(2) for "The disabled child premium to which paragraph 14 applies" there shall be substituted "The disabled child premium and the carer premium to which paragraphs 14 and 14ZA respectively apply";

(*c*) in paragraph 7—

(i) at the beginning there shall be inserted "(1) Subject to sub-paragraph (2),",

(ii) after sub-paragraph (1) there shall be added the following sub-paragraph—

"(2) For the purposes of the carer premium under paragraph 14ZA, a person shall be treated as being in receipt of an invalid care allowance by virtue of sub-paragraph (1)(*a*) only if, and for so long as, the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance.";

(*d*) after paragraph 14 there shall be inserted the following paragraph—

"*Carer premium*

14ZA.—(1) The condition for the carer premium is that the claimant or his partner is, or both of them are, in receipt of an invalid care allowance under section 37 of the principal Act(**a**).

(a) 1975 c. 15; section 37 was amended by Article 38(1) of, and Schedule 10 to, the Social Security (Northern Ireland) Order 1986