# 1988 No. 424

## HOUSING; RATES

## The Housing Benefit (General) (Amendment No. 4) Regulations (Northern Ireland) 1988

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| *Made* | *1st December 1988* |
| *Coming into operation* | *5th December 1988* |

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(8) and (12)(*g*), 23(1), (8) and (9), 30(7) and 52(1)(*b*) 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, 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) 1988 and shall come into operation on 5th December 1988.

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

*Amendment of regulation 2 of the principal regulations*

**2.** In regulation 2(1) of the principal regulations (interpretation)—

(*a*) after the definition of "close relative" there shall be inserted the following definition—

" "community charge rebate" means a rebate under the provisions of section 24(*a*) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(**d**);";

(*b*) for the definition of "polygamous marriage" there shall be substituted the following definition—

" "polygamous marriage" means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;".

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(**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**) S.R. 1987 No. 461; the relevant amending regulations are S.R. 1988 Nos. 117, 186 and 314

(**d**) 1987 c. 47; section 24 was amended by paragraph 32 of Schedule 12 to the Local Government Finance Act 1988 (c. 41)

*Amendment of regulation 5 of the principal regulations*

**3.** In regulation 5(9) of the principal regulations (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) in the definition of ''residential accommodation'' at the end of paragraph (*b*) there shall be added ''where board is available to the claimant''.

*Amendment of regulation 8 of of the principal regulations*

**4.** In regulation 8(2)(*b*)(ii) of the principal regulations (eligible housing costs) at the end there shall be added ''where board is available to the claimant''.

*Amendment of regulation 10 of the principal regulations*

**5.** In regulation 10(1)(*h*) of the principal regulations (rent) after ''a dwelling'' there shall be inserted ''which is a building or part of one''.

*Amendment of regulation 21 of the principal regulations*

**6.** In regulation 21(2) of the principal regulations (calculation of income on a weekly basis) for the words from ''regulations 27(3)'' to the end of that regulation there shall be substituted ''regulations 34 and 35 (capital treated as income and notional income)''.

*Omission of regulation 27 of the principal regulations*

**7.** Regulation 27 of the principal regulations (treatment of charitable or voluntary payments) shall be omitted.

*Amendment of regulation 33 of the principal regulations*

**8.** In regulation 33(1) of the principal regulations (calculation of income other than earnings) for ''regulations 27(3) and 34 (treatment of charitable or voluntary payments and capital treated as income)'' there shall be substituted ''regulation 34 (capital treated as income)''.

*Amendment of regulation 35 of the principal regulations*

**9.** In regulation 35 of the principal regulations (notional income)—

(*a*) for paragraph (3) there shall be substituted the following paragraph—

''(3) Any payment of income, other than a payment of income made under the Macfarlane Trust or the Independent Living Fund, made—

(*a*) to a third party in respect of a single claimant or in respect of a member of the family (but not a member of the third party's family) shall be treated as possessed by that single claimant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel, eligible rent or rates or both, of that single claimant or, as the case may be, of any member of that family;

(*b*) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.'';

(*b*) after paragraph (8) there shall be added the following paragraph—

"(9) In paragraph (3) the expression "ordinary clothing or footwear" means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.".

*Amendment of regulation 38 of the principal regulations*

**10.** In regulation 38(1) of the principal regulations (calculation of capital) for "regulations 27(2) and 40 (treatment of charitable or voluntary payments and income treated as capital)" there shall be substituted "regulation 40 (income treated as capital)".

*Amendment of regulation 40 of the principal regulations*

**11.** In regulation 40 of the principal regulations (income treated as capital)—

(*a*) in paragraph (1) "annual" shall be omitted; and after "applies" there shall be inserted "and paid at intervals of at least one year";

(*b*) in paragraph (4) for "or 13" there shall be substituted ", 13 or 24 to 27".

*Amendment of regulation 43 of the principal regulations*

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

(*a*) for paragraph (3) there shall be substituted the following paragraph—

"(3) Any payment of capital, other than a payment of capital made under the Macfarlane Trust or the Independent Living Fund, made—

(*a*) to a third party in respect of a single claimant or in respect of a member of the family (but not a member of the third party's family) shall be treated as possessed by that single claimant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel, eligible rent or rates or both, of that single claimant or, as the case may be, of any member of that family;

(*b*) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.";

(*b*) after paragraph (6) there shall be added the following paragraph—

"(7) In paragraph (3) the expression "ordinary clothing or footwear" means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.".

*Amendment of regulation 44 of the principal regulations*

**13.** In regulation 44(1) of the principal regulations (capital jointly held) at the end there shall be added "and the foregoing provisions of this Chapter

shall apply for the purposes of calculating the amount of capital which the claimant is treated as possessing as if it were actual capital which the claimant does possess''.

*Amendment of regulation 45 of the principal regulations*

**14.** In regulation 45(3) of the principal regulations (calculation of tariff income from capital) for ''regulations 27(2) and 40 (treatment of charitable or voluntary payments and income treated as capital)'' there shall be substituted ''regulation 40 (income treated as capital)''.

*Amendment of regulation 72 of the principal regulations*

**15.** In regulation 72(14) of the principal regulations (time and manner in which claims are to be made) for ''approves'' there shall be substituted ''proves''.

*Amendment of regulation 105 of the principal regulations*

**16.** In regulation 105(1) of the principal regulations (recovery of overpayments from prescribed benefits) sub-paragraph (*d*) shall be omitted.

*Amendment of Schedule 2 to the principal regulations*

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

(*a*) in paragraph 12—

(i) in sub-paragraph (1)(*a*)(i) at the end there shall be added ''but, in the case of invalidity pension or severe disablement allowance only where it is paid in respect of him'',

(ii) in sub-paragraph (1)(*b*) for ''a period'' there shall be substituted ''a continuous period'',

(iii) after sub-paragraph (4) there shall be added the following sub-paragraph—

''(5) For the purposes of sub-paragraph (1)(*b*), once the disability premium is applicable to a claimant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 3 of the Employment and Training Act (Northern Ireland) 1950(**a**);

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

''*Persons in receipt of concessionary payments*

**14A.** For the purpose of determining whether a premium is applicable to a person under paragraphs 12 to 14, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.''.

*Amendment of Schedule 3 to the principal regulations*

**18.** In Schedule 3 to the principal regulations (sums to be disregarded in the calculation of earnings)—

(**a**) 1950 c. 29 (N.I.)