1987 No. 462

HOUSING; RATES

The Housing Benefit (Transitional) Regulations (Northern Ireland) 1987

Made . . . . . 21st December 1987

Coming into operation . . . 31st December 1987

ARRANGEMENT OF REGULATIONS

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The Department of Health and Social Services, in exercise of the powers conferred on it by Article 84(1) of the Social Security (Northern Ireland) Order 1986(**a**), and of all other powers enabling it in that behalf, by this statutory rule which contains only provisions consequential on Articles 21, 22, 23, 29, 30 and 52 of that Order and regulations made under those Articles in their application to housing benefit and is made before the end of a period of 12 months from the commencement of those Articles, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations, which may be cited as the Housing Benefit (Transitional) Regulations (Northern Ireland) 1987, shall come into operation on 31st December 1987.

(2) In these regulations—

"benefit week" has the same meaning as in regulation 7 of the Supplementary Benefit (Determination of Questions) Regulations (Northern Ireland) 1980(**b**);

(a) S.I. 1986/1888 (N.I. 18)
(b) S.R. 1980 No. 423; the relevant amending regulations are S.R. 1981 No. 215, S.R. 1982 No. 295, S.R. 1983 No. 290 and S.R. 1984 No. 174

"the General Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**a**);

"new scheme" means the housing benefit scheme made under Article 21(1)(*c*) of the Social Security (Northern Ireland) Order 1986;

"former housing benefit recipient" means a person who, immediately before the relevant date, was in receipt of a rebate or allowance under an old scheme;

"old scheme" means a scheme made under Article 3 of the Housing Benefits (Northern Ireland) Order 1983(**b**) for granting rate rebates, rent rebates or rent allowances;

and other expressions have the same meaning as in the General Regulations.

(3) For the purposes of these regulations "relevant date" means—

(*a*) in any case to which paragraph (4) applies, 1st April 1988; and

(*b*) in any other case, 4th April 1988.

(4) This paragraph applies to any case where—

(*a*) rent is payable at intervals of one month or any other interval which is not a week or a multiple thereof; or

(*b*) payments by way of rates are not made together with payments of rent at weekly intervals or a multiple thereof.

(5) Any reference in these regulations to a "qualifying certificate" is a reference to a certificate of entitlement to housing benefit issued by the Department under regulation 9(1) of the Housing Benefits Regulations (Northern Ireland) 1985(**c**) (persons on supplementary benefit) and any reference to a period during which a qualifying certificate is in force shall be construed as a reference to the period beginning with the date recorded on that certificate as the date from which qualifying supplementary benefit becomes payable and ending with the date on which that certificate is cancelled.

(6) For the purposes of regulation 5 "benefit period" has the same meaning as in regulation 2 of the Housing Benefits Regulations (Northern Ireland) 1985 (interpretation).

Transitional provision for claims

2.—(1) A claim for housing benefit under the new scheme may be made during the period of 13 weeks immediately preceding the relevant date, and a claim for a rebate or allowance under an old scheme made during that period may in addition be treated as a claim for housing benefit under the new scheme.

(2) A claim for a rebate or an allowance under an old scheme made, but not determined, before the relevant date—

(*a*) shall remain effective, in respect of any period before that date, as a claim for a rebate or an allowance under an old scheme; and

(*b*) shall be treated, in respect of any period after that date, as a claim for housing benefit under the new scheme.

(**a**) S.R. 1987 No. 461
(**b**) S.I. 1983/1121 (N.I. 14)
(**c**) S.R. 1985 No. 282

(3) Subject to the provisions of these regulations, any claim for housing benefit under the new scheme made or treated as made in accordance with paragraphs (1) and (2)(*b*) may be determined before the relevant date in accordance with the Order and regulations made thereunder as if those provisions were in operation.

(4) Where a claim is made on or after the relevant date in respect of a period before that date the appropriate authority may determine under regulation 72(14) of the General Regulations (backdating claims for good cause) that the claim may be backdated and, in any case where it so determines, entitlement to a rebate or allowance in respect of the period before the relevant date shall be calculated in accordance with the provisions of an old scheme.

(5) Regulation 76(3) of the General Regulations (time within which claims are to be determined) shall not apply to claims for housing benefit under the new scheme made or treated as made under this regulation until 14 days before the relevant date.

(6) In order to determine a person's entitlement to housing benefit under the new scheme, for the purposes of these regulations, the appropriate authority may require that person to furnish such certificates, documents, information and evidence as it may reasonably require.

Waiver of claims for housing benefit by former recipients

3.—(1) Notwithstanding the provisions of section 154A of the principal Act(**a**) (general provision as to necessity of claim for entitlement to benefit), the appropriate authority may determine that it shall not be a condition of entitlement to housing benefit under the new scheme for a former housing benefit recipient that a claim for such benefit has been made; and where it so determines the provisions of the Order and regulations made thereunder shall apply, subject to the following provisions, as if a claim for that benefit had been duly made by the former housing benefit recipient in respect of a period commencing on the relevant date.

(2) Where by virtue of paragraph (1) a person's entitlement to housing benefit falls to be determined as if a claim for it had been duly made in respect of a period commencing on the relevant date, it may nevertheless be determined at an earlier date if the former housing benefit recipient is entitled to a rebate or allowance under an old scheme at the date of the determination; any entitlement under the new scheme shall be determined in accordance with the Order and regulations made under the Order as if those provisions were in operation.

(3) A determination which is made awarding housing benefit under the new scheme under paragraph (2)—

(*a*) may award that benefit from the relevant date if it appears probable to the appropriate authority that the conditions for entitlement to housing benefit will be satisfied from that date;

(*b*) shall be subject to the conditions for entitlement being satisfied on the relevant date;

(a) Section 154A was inserted by Article 17 of the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), substituted by paragraph 56 of Schedule 9 and applied by paragraph 32 of that Schedule to the Social Security (Northern Ireland) Order 1986

(*c*) may be reviewed if any question arises as to the satisfaction of those conditions.

Transitional provisions for the calculation of benefit

4.—(1) For any period beginning on or after the relevant date and ending before 11th April 1988, entitlement to housing benefit under the new scheme shall be calculated as if in paragraph 10 of Schedule 3 to the General Regulations (sums to be disregarded in the calculation of earnings), paragraph 4 of Schedule 4 to those regulations (sums to be disregarded in the calculation of income other than earnings) and in paragraph 5 of Schedule 5 to those regulations (capital to be disregarded) there were substituted for the references to income support references to supplementary benefit.

(2) During the period beginning on the relevant date and ending immediately before 11th April 1988, references in the General Regulations to a person on income support shall be construed as references to a person in receipt of supplementary benefit.

(3) For the purpose of determining whether, in any case, the additional condition for a higher pension premium or disability premium specified in paragraph 12(1)(*b*) of Schedule 2 to the General Regulations (applicable amounts) is satisfied in respect of any period before the relevant date, that provision shall be construed as though there were inserted therein, immediately after the reference to the principal Act, a reference to the Supplementary Benefits (Northern Ireland) Order 1977(**a**).

Benefit periods

5.—(1) Where a person is entitled to a rebate or allowance immediately before the end of the benefit period which applies in his case and that period expires on or after 1st March 1988 but before the relevant date, the appropriate authority may, if it has reason to think that that person will be entitled to a rebate or allowance under an old scheme until the relevant date, extend the benefit period so that it expires on the relevant date.

(2) In the case of any person to whom regulation 3(1) applies, and in relation to whom a qualifying certificate is not in force, the appropriate authority may treat that person's benefit period under an old scheme as continuing until the date on which it would have ended if it would, but for the termination of that old scheme, have ended on or after the relevant date if that authority has reason to think that the person will be entitled to housing benefit under the new scheme until the end of that benefit period.

Payment

6. During the period beginning 4 weeks before the relevant date and ending 4 weeks after that date the appropriate authority may pay together—

(*a*) any rent allowance calculated under an old Scheme to which a person is entitled in respect of all or part of the period of 4 weeks falling before the relevant date; and

(*b*) any rent allowance calculated under the new scheme to which a person is entitled in respect of all or part of the period of 4 weeks falling on or after the relevant date,

(**a**) S.I. 1977/2156 (N.I. 27); provisions of the Supplementary Benefits (Northern Ireland) Order 1977, as amended by Article 7 of, and Part I of Schedule 2 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)), are set out in Part II of that Schedule