1984 No. 280

HOUSING; RATES

The Housing Benefits (Amendment No. 2) Regulations (Northern Ireland) 1984

Made . . . . . 7th August 1984

Coming into operation

Regulations 1 to 4(a), 10 and 11 ..... 1st September 1984
Remainder ..... 26th November 1984

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 3(2) of the Housing Benefits (Northern Ireland) Order 1983(**a**) and acting jointly with the Department of the Environment, in exercise of the powers conferred on them by Article 3(1) of that Order, in each case with the consent of the Department of Finance and Personnel, and in exercise of all other powers enabling them in that behalf, hereby make the following regulations which, except for regulation 10, correspond to provision contained in regulations made by the Secretary of State in relation to Great Britain, and after agreement by the Social Security Advisory Committee that proposals to make regulation 10 should not be referred to it, and which accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980(**b**) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Housing Benefits (Amendment No. 2) Regulations (Northern Ireland) 1984 and shall come into operation on 1st September 1984 except for regulations 4(*b*), 5 to 9 and 12 to 14 which shall come into operation on 26th November 1984.

(2) In these regulations "the principal regulations" means the Housing Benefits Regulations (Northern Ireland) 1983(**c**).

Amendment of regulations 5, 6 and 7 of the principal regulations

2. In regulations 5(1) (eligibility for rate rebate), 6(1) (eligibility for rent rebate) and 7(1) (eligibility for rent allowance) for "and 11(2)" on each occasion where it appears there shall be substituted ", 11(2) and 11A".

Insertion of regulation 11A in the principal regulations

3. After regulation 11 of the principal regulations there shall be inserted the following regulation—

"*Students from abroad*

11A.—(1) Except in a certificated case, a student with limited leave or without leave to enter or remain in the United Kingdom shall not be eligible for housing benefit.

(**a**) S.I. 1983/1121 (N.I. 14)
(**b**) 1980 c. 30
(**c**) S.R. 1983 No. 292, as amended by S.R. 1984 No. 77

(2) In this regulation "student with limited leave or without leave to enter or remain in the United Kingdom" means a person who is present in the United Kingdom for the purpose of attending a course of education, whether or not he is for the time being engaged in a programme of studies, and who—

(*a*) is a person, other than a national of a member State or a person to whom the European Convention on Social and Medical Assistance done at Paris on 11th December 1953(**a**) applies, who has a limited leave (as defined in section 33(1) of the Immigration Act 1971(**b**)) to enter or remain in the United Kingdom which was given in accordance with any provision of immigration rules (as defined in section 33(1) of that Act) which refers to there being, or to there needing to be, no recourse to public funds, or to there being no charge on public funds, during that limited leave,

(*b*) having a limited leave (as defined in section 33(1) of the Immigration Act 1971) to enter or remain in the United Kingdom, has remained without further leave under that Act beyond the time limited by the leave,

(*c*) is the subject of a deportation order, that is to say an order within section 5(1) of the Immigration Act 1971 requiring him to leave and prohibiting him from entering the United Kingdom, or

(*d*) is an illegal entrant (as defined in section 33(1) of the Immigration Act 1971) who is not given leave under that Act to enter or remain in the United Kingdom.".

Amendment of regulation 16 of the principal regulations

4. In regulation 16 of the principal regulations (eligible rent)—

(*a*) in paragraph (2)(*e*) for "£14·70" there shall be substituted "£15·30";

(*b*) after paragraph (3) there shall be inserted the following paragraph—

"(3A) In a certificated case where a rent rebate or a rent allowance is payable in accordance with regulation 4(2) in respect of two dwellings, no deduction shall be made under paragraph (2)(*b*) in respect of the dwelling not being occupied by the eligible person.".

Amendment of regulation 18 of the principal regulations

5.—(1) Regulation 18 of the principal regulations (deductions for non-dependants) shall be amended in accordance with the following paragraphs.

(2) In paragraph (1)—

(*a*) for "paragraphs (3) to (7)" there shall be substituted "paragraphs (3) to (8B)";

(*b*) for sub-paragraph (*a*)(i) there shall be substituted the following—

"(i) where he is aged 16 or 17, £0·95,";

(*c*) in sub-paragraph (*a*)(ii) for "21" there shall be substituted "18" and for "£1·85" there shall be substituted "£2·20";

(*d*) in sub-paragraph (*a*)(iii) for "£0·90" there shall be substituted "£0·95";

(*e*) in sub-paragraph (*b*) for "£0·90" there shall be substituted "£0·95".

(3) In paragraph (2)—

(*a*) for "paragraphs (3) to (7)" there shall be substituted "paragraphs (3) to (8B)";

(**a**) Cmnd. 9512
(**b**) 1971 c. 77

(*b*) for sub-paragraph (*a*)(i) there shall be substituted the following—

"(i) where he is aged 16 or 17, £2·35,";

(*c*) in sub-paragraph (*a*)(ii) for "21" there shall be substituted "18" and for "£4·70" there shall be substituted "£6·60";

(*d*) in sub-paragraph (*a*)(iii) for "£2·20" there shall be substituted "£2·35";

(*e*) in sub-paragraph (*b*) for "£2·20" there shall be substituted "£2·35".

(4) In paragraph (8) for "regulation 28" there shall be substituted "regulation 18A".

(5) After paragraph (8) there shall be inserted the following paragraphs—

"(8A) No deduction shall be made in respect of a non-dependant for any period before the terminal date within the meaning of regulation 7 of the Child Benefit (General) Regulations (Northern Ireland) 1979(**a**).

(8B) No deduction shall be made in respect of a non-dependant aged 16 or 17 who is in receipt of a non-contributory invalidity pension under section 36 of the Social Security (Northern Ireland) Act 1975(**b**).".

Insertion of regulation 18A in the principal regulations

6. After regulation 18 of the principal regulations there shall be inserted the following regulation—

"*Lesser deductions for non-dependants in certain cases*

18A.—(1) Where a non-dependant of a claimant for a housing benefit in respect of whom a deduction falls to be made under regulation 18 (deductions for non-dependants) fulfils the specified conditions and the claimant has furnished the appropriate authority with the necessary information, the authority shall, subject to paragraph (2), determine that the deduction in respect of that non-dependant shall be a lesser deduction.

(2) Where a claimant fails to furnish any necessary information within six weeks of being requested in writing to do so by the appropriate authority, the authority shall be under no duty to make a determination in accordance with paragraph (1).

(3) Subject to regulations 24 and 25 (duration of benefit period) a lesser deduction shall be made so as to take effect from the week in which the non-dependant in respect of whom the deduction falls to be made first fulfilled the necessary conditions and shall continue to be made until such time as he ceases to fulfil the condition as to income specified in regulation 18(8).

(4) In this regulation—

"lesser deduction" means a deduction under regulation 18 in accordance with paragraph (8) of that regulation in the calculation of a housing benefit;

"necessary information" means—

(*a*) a statement signed by the non-dependant in respect of whom the question of a lesser deduction arises to the effect that he fulfils the specified conditions, and

(*b*) such other information and evidence as the appropriate authority may reasonably require for the purposes of making the determination;

"specified conditions" means, in relation to a non-dependant, both of the following conditions—

(*a*) the condition as to income specified in regulation 18(8), and

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(**a**) S.R. 1979 No. 5, as amended by S.R. 1980 No. 261 and S.R. 1982 No. 114
(**b**) 1975 c. 15

(*b*) that, for a period of not less than fifty-six consecutive days each day was a day—

(i) in respect of which he was in receipt of a benefit specified in sub-paragraphs (*a*) to (*c*) of regulation 18(8) or would have been entitled to any such benefit but for section 14(3) of the Social Security (Northern Ireland) Act 1975 (first three days) or section 17(1)(*e*) of that Act (Sundays and certain other days), or

(ii) which, for the purposes of Part II of the 1982 Order (statutory sick pay) was a day of incapacity for work in relation to his contract of service (and, if more than one, to each such contract) and fell within a period of entitlement to statutory sick pay.''.

Amendment of regulation 19(5) of the principal regulations

7. In regulation 19(5) of the principal regulations (income exceeding needs allowance)—

(*a*) in sub-paragraph (*a*) for ''7%'' there shall be substituted ''9%'';

(*b*) in sub-paragraph (*b*) for ''21%'' there shall be substituted ''29%''.

Amendment of regulation 20 of the principal regulations

8. In regulation 20 of the principal regulations (minimum and maximum amounts of benefit) for paragraph (1) there shall be substituted the following paragraphs—

''(1) If the weekly amount of a housing benefit calculated in accordance with the other provisions of these regulations would be less than the appropriate minimum, it shall not be granted.

(1A) In paragraph (1), ''appropriate minimum'' means—

(*a*) in a certificated case, a case in which the eligible person has claimed and is entitled to supplementary benefit for the purposes of ascertaining which a requirement is applicable under regulation 19A of the Requirements Regulations (housing benefit supplement) or a case in which the weekly income of the eligible person and any partner of his is less than the amount of the needs allowance applicable to his case—

(i) for the purposes of a rate rebate, 10 pence per week, and

(ii) for the purposes of a rent rebate or rent allowance, 20 pence per week;

(*b*) in any other case, for the purpose of a rate rebate, rent rebate or rent allowance, 50 pence per week.''.

Amendment of regulation 27(2) of the principal regulations

9. In regulation 27(2) (procedure following a claim) after sub-paragraph (*c*) there shall be inserted the following sub-paragraph—

''(*cc*) any necessary information within the meaning of regulation 18A (lesser deductions for certain non-dependants);''.

Amendment of regulation 51 of the principal regulations

10. Regulation 51 of the principal regulations (supplement to rent rebate or rent allowance) shall be amended as follows—

(*a*) for paragraph (5) there shall be substituted the following paragraph—

''(5) Where a person entitled to a supplement on 21st November 1983 becomes entitled subsequently under Part III of these regulations—

(*a*) to an increased amount of rent rebate or rent allowance, except an increase—