

1990 No. 136

HOUSING; RATES

The Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1990

Made 29th March 1990

Coming into operation—

for the purposes of regulation 1 1st April 1990
for the purposes of regulations 2, 3 and 5 to 14

to the extent that they relate to cases referred to in regulation 1(2) 1st April 1990

to the extent that they relate to any other case 2nd April 1990

for the purposes of regulation 4 9th April 1990

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(1)(c) and (11), 22(6)(b), 23(1), (8) and (9) and 52(1)(l) 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. 2) Regulations (Northern Ireland) 1990 and shall, subject to paragraph (3), come into operation as follows—

- (a) regulation 1 on 1st April 1990;
- (b) regulations 2, 3 and 5 to 14, in any case to which paragraph (2) applies on 1st April 1990, and in any other case on 2nd April 1990;
- (c) regulation 4 on 9th April 1990.

(2) This paragraph applies in 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

(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

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

(3) In any case in which these regulations and the Social Security Benefits Up-rating Order (Northern Ireland) 1990(a) come into operation on the same day, these regulations shall come into operation immediately after that order.

(4) In these regulations “the principal regulations” means the Housing Benefit (General) Regulations (Northern Ireland) 1987(b).

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 benefit” means community charge benefit under Part II of the Social Security Act 1986(c);”;

(b) in the definition of “lone parent” for “is not a” there shall be substituted “has no”;

(c) after the definition of “student” there shall be inserted the following definition—

“ “training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

(a) out of public funds by a government department or by or on behalf of the Department of Economic Development;

(b) to a person for his maintenance or in respect of a member of his family; and

(c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, a government department or approved by such department in relation to him or so provided or approved by or on behalf of the Department of Economic Development,

but it does not include an allowance paid by any government department to, or in respect of, a person by reason of the fact that he is following a course of full-time education, other than under arrangements provided under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945(d) or made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(e), or is training as a teacher;”.

(a) S.R. 1990 No. 70

(b) S.R. 1987 No. 461; the relevant amending rules are S.R. 1988 Nos. 186 and 424, S.R. 1989 No. 125 and S.R. 1990 Nos. 70 and 72

(c) 1986 c. 50; Part II was amended by Schedule 10 to the Local Government Finance Act 1988 (c. 41)

(d) 1945 c. 6 (N.I.); sections 2 and 3 were amended by section 1 of the Disabled Persons (Employment) Act (Northern Ireland) 1960 (c. 4 (N.I.)) and Schedule 18 to the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))

(e) 1950 c. 29 (N.I.); section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

Amendment of regulation 3 of the principal regulations

3. In regulation 3(2)(d) of the principal regulations (definition of non-dependant) at the end there shall be added “and is either a co-owner of that dwelling with the claimant or his partner (whether or not there are other co-owners) or is liable with the claimant or his partner to make payments in respect of his occupation of the dwelling”.

Amendment of regulation 13 of the principal regulations

4. In regulation 13(2) of the principal regulations (persons of prescribed description) at the end there shall be added “or to a person who is receiving advanced education within the meaning of regulation 12(2) of the Income Support (General) Regulations (Northern Ireland) 1987(a) (relevant education)”.

Amendment of regulation 34 of the principal regulations

5. In regulation 34 of the principal regulations (capital treated as income) after paragraph (2) there shall be added the following paragraph—

“(3) Any earnings to the extent that they are not a payment of income shall be treated as income.”.

Amendment of regulation 40 of the principal regulations

6. In regulation 40 of the principal regulations (income treated as capital) after paragraph (5) there shall be added the following paragraph—

“(6) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust or the Independent Living Fund, shall be treated as capital.”.

Amendment of regulation 56 of the principal regulations

7. In regulation 56 of the principal regulations (relationship with amounts to be disregarded under Schedule 4) for “only if, and to the extent that,” there shall be substituted “to the extent that”; and for “£5” there shall be substituted “£10”.

Amendment of regulation 63 of the principal regulations

8. In regulation 63 of the principal regulations (non-dependant deductions)—

- (a) in paragraph (1)(a) “or a boarder aged 18 or over” shall be omitted;
- (b) in paragraph (2) “and of a boarder aged 18 or over in remunerative work” shall be omitted;
- (c) in paragraph (6)(b) at the end there shall be added “in respect of himself”;
- (d) in paragraph (7), in sub-paragraphs (b) and (c) “and is not a boarder” in each of those sub-paragraphs shall be omitted;
- (e) in paragraph (8) “Except in the case of a boarder aged 18 or over,” shall be omitted.

(a) S.R. 1987 No. 459; the relevant amending regulations are S.R. 1990 No. 131

Amendment of regulation 67 of the principal regulations

9. In regulation 67 of the principal regulations (date on which benefit period is to end) for the words from “unless” to the end there shall be substituted—

“unless—

- (a) the claimant is a person on income support and he ceases to be entitled when, except in cases to which sub-paragraph (b) refers, the benefit period will end with the last day of the benefit week in which the cessation of his entitlement takes effect in accordance with regulation 68(1) (date on which change of circumstances is to take effect);
- (b) the claimant is a person on income support and he ceases to be entitled on account of an award of benefit under the principal Act when the benefit period will end at the end of the benefit week in which the payment of income support ceases; or
- (c) the appropriate authority determines that some other change of circumstances has occurred which should result in the benefit period ending with an earlier week when the benefit period will end with the last day of that week.”

Amendment of Schedule 2 to the principal regulations

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

- (a) in paragraph 6(1) for the words from “either the higher pensioner premium” to the end there shall be substituted “any other premium which may apply under this Schedule.”;
- (b) in paragraph 7(b) for “section 1(1) of the Employment and Training Act (Northern Ireland) 1950” there shall be substituted “sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or section 1(1) of the Employment and Training Act (Northern Ireland) 1950 or for any period during which he is in receipt of a training allowance”;
- (c) in paragraph 8 for the words from “is a member” to the end there shall be substituted “is a lone parent.”;
- (d) in paragraph 12—
 - (i) in sub-paragraph (1) for head (b) there shall be substituted the following head—
 - “(b) the circumstances of the claimant fall, and have fallen, in respect of a continuous period of not less than 28 weeks, within sub-paragraph (6) or, if he was in Great Britain for the whole or part of that period, within one or more of the comparable Great Britain provisions.”,
 - (ii) in sub-paragraph (5) for “section 3 of the Employment and Training Act (Northern Ireland) 1950” there shall be substituted “sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or section 3 of the Employment and Training Act (Northern Ireland) 1950 or for any period during which he is in receipt of a training allowance”,

(iii) after sub-paragraph (5) there shall be added the following sub-paragraph—

“(6) For the purposes of sub-paragraph (1)(b) the circumstances of a claimant fall within this sub-paragraph if—

(a) he provides evidence of incapacity in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(a) (evidence of incapacity for work) in support of a claim for sickness benefit, invalidity pension or severe disablement allowance within the meaning of sections 14, 15 or 36 of the principal Act, provided that an adjudication officer has not determined that he is not incapable of work; or

(b) he is in receipt of statutory sick pay within the meaning of Part II of the Social Security (Northern Ireland) Order 1982(b).”;

(e) in paragraph 13—

(i) in sub-paragraph (2)(a)(iii) “no one is in receipt of” shall be omitted; and after “principal Act” there shall be inserted “is not in payment to anyone”,

(ii) in sub-paragraph (2)(b) for “there is someone in receipt of an invalid care allowance” there shall be substituted “an invalid care allowance is payable to someone”; and, for “there is no one in receipt of such an allowance” there shall be substituted “such an allowance is not in payment to anyone”;

(f) after paragraph 14A there shall be inserted the following paragraph—

“*Persons in receipt of benefit*

14B. For the purposes of this Part, a person shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.”.

Amendment of Schedule 3 to the principal regulations

11. In Schedule 3 to the principal regulations (sums to be disregarded in the calculation of earnings) in paragraph 3(7) for “income support” there shall be substituted “housing benefit”.

Amendment of Schedule 4 to the principal regulations

12. In Schedule 4 to the principal regulations (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraphs 15, 16 and 35 for “£5” in each of those paragraphs there shall be substituted “£10”;

(b) in paragraph 21 “or a boarder” shall be omitted;

(c) after paragraph 42 there shall be added the following paragraphs—

“43. Any community charge benefit.

(a) S.R. 1976 No. 175; the relevant amending regulations are S.R. 1982 No. 153 and S.R. 1987 No. 117
 (b) S.I. 1982/1084 (N.I. 16)

44. Any payment in consequence of a reduction of a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988(a) or section 9A of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(b) (reduction of liability for personal community charge).

45. Where the claimant occupies a dwelling as his home and that dwelling is also occupied by a boarder who makes payments to the claimant in respect of his occupation—

- (a) £20·00 of any payment made by that boarder; and
- (b) if the payment exceeds £20·00, 50 per cent. of the excess.

46. Any special war widows payment made under—

- (a) the Naval and Marine Pay and Pensions (Special War Widows Payment) Order 1990 made under section 3 of the Naval and Marine Pay and Pensions Act 1865(c);
- (b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977(d);
- (c) the Queen's Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917(e);
- (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980(f);
- (e) the Orders dated 19th February 1990 amending Orders made on 12th December 1980 concerning the Ulster Defence Regiment made in each case under section 140 of the Reserve Forces Act 1980(g),

and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under the provisions mentioned in sub-paragraphs (a) to (e).”.

Amendment of Schedule 5 to the principal regulations

13. In Schedule 5 to the principal regulations (capital to be disregarded) after paragraph 34 there shall be added the following paragraphs—

“35. Any community charge benefit.

36. Any payment in consequence of a reduction of a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988 or section 9A of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (reduction of liability for personal

- (a) 1988 c. 41; section 13A was inserted by paragraph 5 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42)
- (b) 1987 c. 47; section 9A was inserted by section 143 of the Local Government and Housing Act 1989
- (c) 1865 c. 73; copies of the Order are available from: Ministry of Defence, NPC2, Room 317, Archway Block South, Old Admiralty Building, Spring Gardens, London SW1A 2BE
- (d) Army Code No. 13045 published by HMSO
- (e) 1917 c. 51; Queen's Regulations for the Royal Air Force are available from HMSO
- (f) 1980 c. 9; copies of the regulations are available from: Ministry of Defence at the address given in footnote (c)
- (g) Army Code No. 60589 published by HMSO

community charge) but only for a period of 52 weeks from the date of the receipt of the payment.

37. Any grant made in Great Britain to the claimant in accordance with a scheme made under section 129 of the Housing Act 1988(a) or section 66 of the Housing (Scotland) Act 1988(b) (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—

(a) to purchase premises intended for occupation as his home; or

(b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,

for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the claimant to commence occupation of those premises as his home.'''

Revocations

14. Regulations 7(b) and 11 of the Housing Benefit (General) (Amendment) Regulations (Northern Ireland) 1989(c) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services on 29th March 1990.

(L.S.)

A. N. Burns

Assistant Secretary

The Department of the Environment hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of the Environment on 29th March 1990.

(L.S.)

W. N. Campbell

Assistant Secretary

(a) 1988 c. 50

(b) 1988 c. 43

(c) S.R. 1989 No. 125

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Housing Benefit (General) Regulations (Northern Ireland) 1987 ("the principal regulations").

Regulation 4 amends regulation 13 of the principal regulations so that young persons who are attending courses of advanced education are excluded from membership of the family for the purposes of housing benefit.

Regulation 5 amends regulation 34 of the principal regulations so that earnings are treated as income in all cases.

Regulation 6 amends regulation 40 of the principal regulations so that charitable or voluntary payments paid at irregular intervals shall be treated as capital and regulation 7 increases the amount disregarded under regulation 56 of the principal regulations, in the case of a student, to ensure that certain students may benefit from the increased disregard provided for charitable and voluntary payments.

Regulation 8 amends regulation 63 of the principal regulations so that non-dependant deductions are not made in the case of boarders and regulation 9 amends the provisions in regulation 67 of the principal regulations under which the benefit period ends.

Regulations 10 to 13 make a number of minor amendments to provisions in Schedules 2 to 5 of the principal regulations (applicable amounts and capital and income to be disregarded). These amendments are principally concerned with the consequences of the introduction of community charge benefit in England and Wales and the amendment of the provision relating to income from boarders.

Regulation 14 contains consequential revocations.