

1995 No. 89

HOUSING; RATES

**The Housing Benefit (General) (Amendment No. 3) Regulations
(Northern Ireland) 1995***Made 10th March 1995**Coming into operation in accordance with regulation 1(1)*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1)(d), 131(1), 132(1), (3) and (4)(a) and (b), 133(2)(d)(i), (h) and (l) and 171(5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and section 5(1)(l) and (p) of the Social Security Administration (Northern Ireland) Act 1992(b) and of all other powers enabling it in that behalf, with the consent of the Department of the Environment for Northern Ireland(c) 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(d), 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) 1995 and shall come into operation as follows—

(a) regulation 1 on 1st April 1995, and

(b) regulations 2 to 11—

(i) in any case to which paragraph (2) applies, on 1st April 1995, and

(ii) in any other case, on 3rd April 1995.

(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

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

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

(a) 1992 c. 7

(b) 1992 c. 8

(c) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8))

(d) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992

(e) S.R. 1987 No. 461; relevant amending regulations are S.R. 1990 No. 136, S.R. 1991 No. 337, S.R. 1992 No. 6 and S.R. 1994 Nos. 65 and 274

(4) The Interpretation Act (Northern Ireland) 1954(a) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation) after the definition of “unmarried couple” there shall be inserted—

“ “voluntary organisation” means any association carrying on or proposing to carry on any activities otherwise than for the purpose of gain by the association or by individual members of the association;”.

Amendment of regulation 3 of the principal regulations

3. In regulation 3(2)(f) of the principal regulations (definition of non-dependant)(b) for “voluntary body” there shall be substituted “voluntary organisation”.

Amendment of regulation 4 of the principal regulations

4. In regulation 4 of the principal regulations (remunerative work)—

(a) in paragraph (2), at the beginning there shall be inserted “Subject to paragraph (2A),” and

(b) after paragraph (2), there shall be inserted the following paragraph—

“(2A) Where, for the purposes of paragraph (2)(a), a person’s recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work shall be disregarded in establishing the average hours for which he is engaged in work.”.

Amendment of regulation 5 of the principal regulations

5. In regulation 5 of the principal regulations (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) after paragraph (8) there shall be inserted the following paragraph—

“(8A) Where a person is detained in custody pending sentence upon conviction or under a sentence imposed by a court, other than a person who is detained under the Mental Health (Northern Ireland) Order 1986(c), he shall not, for any day that he is on temporary release from detention in accordance with Rules made under the provisions of the Prison Act (Northern Ireland) 1953(d), be treated for the purposes of this regulation as if his detention has ceased.”.

(a) 1954 c. 33 (N.I.)

(b) Paragraph (2)(f) was amended by paragraph 1(b) of Schedule 13 to S.R. 1994 No. 65

(c) S.I. 1986/595 (N.I. 4)

(d) 1953 c. 18 (N.I.)

Amendment of regulation 21A of the principal regulations

6. In regulation 21A(2) of the principal regulations (treatment of child care charges)(a) for the definition of “relevant child care charges” there shall be substituted the following definition—

“ “relevant child care charges” means the charges paid by the claimant for care provided for any child of the claimant’s family who is under the age of 11 years, other than charges paid in respect of the child’s compulsory education or charges paid by a claimant to a partner or by a partner to a claimant in respect of any child for whom either or any of them is responsible in accordance with regulation 14 (circumstances in which a person is to be treated as responsible or not responsible for another), where the care is provided—

- (a) on premises registered under section 11 of the Children and Young Persons Act (Northern Ireland) 1968 (registration of premises of child-minders)(b), or
- (b) in schools or establishments which are exempted from registration under section 19(1)(b) to (d) of that Act,
and shall be calculated on a weekly basis in accordance with paragraph (3).”

Amendment of regulation 35 of the principal regulations

7. In regulation 35(5) of the principal regulations (notional income)(c)—

- (a) for “voluntary body” there shall be substituted “voluntary organisation”, and
- (b) after “satisfied” there shall be inserted “in any of those cases”.

Amendment of regulation 67 of the principal regulations

8. In regulation 67(a) of the principal regulations (date on which benefit period is to end)(d) for the words from “cessation” to “effect” there shall be substituted “change of circumstances actually occurs”.

Amendment of regulation 95 of the principal regulations

9. In regulation 95 of the principal regulations (withholding of benefit)—

- (a) after paragraph (4) there shall be inserted the following paragraph—
“(4A) Where an authority has evidence (other than such evidence as has been considered by an adjudication officer) which raises a reasonable doubt as to the amount of a person’s income or capital for the purposes of his entitlement to income support and as a consequence it gives rise to a question as to his entitlement to housing benefit, the authority may withhold payment of housing benefit in whole or in part pending the determination of the income support

(a) Regulation 21A was inserted by regulation 2(3) of S.R. 1994 No. 274

(b) 1968 c. 34 (N.I.)

(c) Paragraph (5) was amended by regulation 7 of S.R. 1991 No. 337

(d) Paragraphs (a) to (c) were substituted by regulation 9 of S.R. 1990 No. 136

question by an adjudication officer and pending the authority's review under regulation 79.", and

(b) in paragraph (6), after "paragraph (4)" there shall be inserted "(4A)".

Amendment of Schedule 2 to the principal regulations

10. In paragraph 12(1)(a)(iii) of Schedule 2 to the principal regulations (applicable amounts)(a) for the words from "section" to "Act" there shall be substituted "section 113(2) of the Contributions and Benefits Act or otherwise abated as a consequence of the claimant or his partner becoming a patient within the meaning of regulation 18(2) (patients)".

Amendment of Schedule 4 to the principal regulations

11. In paragraph 2(a) of Schedule 4 to the principal regulations (sums to be disregarded in the calculation of income other than earnings) for "voluntary body" there shall be substituted "voluntary organisation".

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 10th March 1995.

(L.S.)

W. G. Purdy

Assistant Secretary

The Department of the Environment for Northern Ireland hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 13th March 1995.

(L.S.)

R. E. Aiken

Assistant Secretary

(This note is not part of the Regulations.)

These Regulations further amend the Housing Benefit (General) Regulations (Northern Ireland) 1987 in the following respects—

- (a) they insert the definition of “voluntary organisation” and additionally substitute all references to “voluntary bodies” with “voluntary organisations” (regulations 2, 3, 7(a) and 11);
- (b) they make provision regarding recognisable cycle of work in respect of school and other ancillary workers (regulation 4);
- (c) they make provision regarding prisoners on temporary release (regulation 5);
- (d) they expand the definition of child care charges (regulation 6);
- (e) they amend the calculation of a claimant’s notional income where he is working for a charitable or voluntary organisation or is a volunteer (regulation 7(b));
- (f) they make provision concerning the date housing benefit ceases in relation to income support (regulation 8);
- (g) they make provision regarding withholding of benefit (regulation 9);
- (h) they make provision concerning abatement of attendance allowance (regulation 10).