
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 93

The Income-Related Benefits (Miscellaneous Amendments) Regulations (Northern Ireland) 1996

Income support and housing benefit: Capital limits for persons in residential and other types of accommodation

11.—(1) In the Income Support Regulations—

(a) for regulation 45(1) (capital limit) there shall be substituted the following regulation—

“**45.** For the purposes of section 130(1) of the Contributions and Benefits Act as it applies to income support (no entitlement to benefit if capital exceeds prescribed amount)

- (a) except where paragraph (b) applies, the prescribed amount is £8,000;
- (b) where the circumstances prescribed in regulation 53(1B) apply in the claimant’s case, the prescribed amount is £16,000.”;

(b) in regulation 53(2) (calculation of tariff income from capital)—

(i) in paragraph (1) at the beginning there shall be inserted “Except where the circumstances prescribed in paragraph (1B) apply to the claimant,”;

(ii) after paragraph (1) there shall be inserted—

“(1A) Where the circumstances prescribed in paragraph (1B) apply to the claimant and that claimant’s capital calculated in accordance with this Part exceeds £10,000, it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £10,000 but not exceeding £16,000.

(1B) For the purposes of paragraph (1A) and regulation 45, the prescribed circumstances are that the claimant lives permanently in—

- (a) a residential care or nursing home, or residential accommodation and that home or accommodation provides board and personal care for the claimant by reason of his old age and infirmity, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, or
- (b) an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society.

(1C) For the purposes of paragraph (1B), the claimant shall be treated as living permanently in such home or accommodation where he is absent from a home or accommodation referred to in that paragraph—

- (a) in the case of a person over pensionable age, for a period not exceeding 52 weeks, and
- (b) in any other case, for a period not exceeding 13 weeks.”;

(1) Relevant amending regulations are [S.R. 1990 No. 137](#)

(2) Relevant amending regulations are [S.R. 1988 No. 431](#) and [S.R. 1990 No. 137](#)

(iii) in both paragraphs (2) and (3) for “paragraph (1)” there shall be substituted “paragraphs (1) and (1A)”;

(iv) after paragraph (3) there shall be added—

“(4) For the purposes of this regulation, the definition of “residential accommodation” in regulation 21(3)(3) (special cases) shall have effect as if for “subject to paragraphs (3A), (4), (4A) and (5)” there were substituted “subject to paragraphs (3A) and (5)”.”.

(2) In the Housing Benefit Regulations—

(a) in regulation 7(4) (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling)—

(i) in paragraph (6)(a)(5) for “5(8)” there shall be substituted “5(7C), (8) or (8C)(6)”;

(ii) for paragraph (9) there shall be substituted the following paragraph—

“(9) For the purposes of paragraph (8), any absence shall be disregarded during which the person is treated as occupying the accommodation as his home pursuant to regulation 5(7C), (8) or (8C).”;

(b) in regulation 45(7) (calculation of tariff income from capital)—

(i) in paragraph (1) at the beginning there shall be inserted “Except where the circumstances prescribed in paragraph (1B) apply to the claimant,”;

(ii) after paragraph (1) there shall be inserted—

“(1A) Where the circumstances prescribed in paragraph (1B) apply to a claimant and that claimant’s capital calculated in accordance with this Part exceeds £10,000, it shall be treated as equivalent to a weekly tariff income of £1 for each complete £250 in excess of £10,000 but not exceeding £16,000.

(1B) For the purposes of paragraph (1A), the prescribed circumstances are that the claimant—

(a) occupies residential accommodation as his home, or

(b) is a person to whom regulation 7(2), (5) or (7)(8) applies (exceptions to circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling).

(1C) For the purposes of paragraph (1B), the claimant shall be treated as occupying residential accommodation as his home or as a person to whom regulation 7(2), (5) or (7) applies in any period during which he is treated as occupying the accommodation as his home pursuant to regulation 5(7C), (8) or (8C).”;

(iii) in both paragraphs (2) and (3) for “paragraph (1)” there shall be substituted “paragraphs (1) and (1A)”;

(iv) after paragraph (3) there shall be added—

“(4) For the purposes of this regulation and subject to paragraph (5), “residential accommodation” means accommodation which is provided by an establishment—

(3) Definition amended by [S.R. 1993 No. 149](#) and [S.R. 1994 No. 65](#)

(4) Relevant amending regulations are [S.R. 1993 No. 149](#)

(5) Paragraphs (6) and (9) were added by [S.R. 1993 No. 149](#)

(6) Regulation 5(7C) and (8C) was inserted, and regulation 5(8) amended, by [S.R. 1995 No. 101](#)

(7) Relevant amending regulations are [S.R. 1988 No. 424](#) and [S.R. 1990 No. 137](#)

(8) Regulation 7(2) was added by [S.R. 1990 No. 442](#) and amended by [S.R. 1993 No. 149](#) and regulation 7(5) and (7) was added by [S.R. 1993 No. 149](#)

- (a) under Article 15 or 36 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽⁹⁾ where board is not available to the claimant and the home in which the accommodation is provided is either owned or managed or owned and managed by a Health and Social Services Board or an HSS trust;
- (b) which is managed or provided by a body incorporated by Royal Charter or constituted by statutory provision (other than a Health and Social Services Board or an HSS trust) and provides both board and personal care for the claimant and in this sub-paragraph, “personal care” means care which includes assistance with bodily functions where such assistance is required;
- (c) which is run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society,

and in this definition, “board” has the same meaning as in regulation 8(2)(b)⁽¹⁰⁾.

(5) Paragraph (4) shall not apply to residential accommodation of the type referred to in sub-paragraph (b) or (c) of that paragraph where such accommodation is residential accommodation for the purposes of regulation 7 and none of paragraphs (2), (5) or (7) of that regulation apply to the claimant in respect of that accommodation.”.

⁽⁹⁾ S.I. 1972/1265 (N.I. 14); Article 15 was extended by sections 1 and 2 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 53) and amended by Schedules 5 and 6 to the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1)) and amended by paragraph 2(2) of Schedule 1 to the Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (N.I. 20)). Article 36 was substituted by Article 25 of the Health and Personal Social Services (Northern Ireland) Order 1991 and amended by paragraph 2(3), (4) and (5) of Schedule 1 to the Registered Homes (Northern Ireland) Order 1992

⁽¹⁰⁾ Regulation 8(2)(b) was substituted by regulation 3(5)(b) of S.R. 1993 No. 149