

**2005 No. 148**

**HOUSING; RATES**

**The Housing Benefit (Miscellaneous Amendments)  
Regulations (Northern Ireland) 2005**

*Made - - - - - 21st March 2005*

*Coming into operation in accordance with regulation 1(2)  
to (4)*

The Department for Social Development, in exercise of the powers conferred by sections 122(1)(d), 132(3) and (4)(b), 132A(3) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and now vested in it(b), and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(c), and after agreement by the Social Security Advisory Committee that proposals in respect of 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 (Miscellaneous Amendments) Regulations (Northern Ireland) 2005.

(2) Subject to paragraphs (3) and (4), these Regulations shall come into operation on 1st April 2005.

(3) Regulations 2(3) to (7) shall come into operation –

(a) in relation to any case where rent is payable at intervals of a whole number of weeks, on 4th April 2005, and

(b) in relation to any other case, on 1st April 2005.

(4) Regulation 2(8) shall come into operation on 3rd October 2005.

(5) In these Regulations –

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations (Northern Ireland) 1987(e).

(6) The Interpretation Act (Northern Ireland) 1954(f) shall apply to these Regulations as it applies to an Act of the Assembly.

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(a) 1992 c. 7; section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(b) See Article 8(b) of S.R. 1999 No. 481

(c) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I.1993/1579 (N.I. 8)); see also Article 6(b) of S.R. 1999 No. 481

(d) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

(e) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1990 No. 345, S.R. 1991 No. 520, S.R. 1994 Nos. 88 and 274, S.R. 1999 No. 298, S.R. 2001 No. 259 and S.R. 2002 Nos. 299 and 363

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

## **Amendment of the Housing Benefit Regulations**

2.—(1) Subject to paragraph (2) the Housing Benefit Regulations shall be amended in accordance with paragraphs (2) to (8).

(2) The amendments made by paragraphs (6) and (7) are to the Housing Benefit Regulations as modified in their application to persons to whom regulation 2 of the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003(a) applies.

(3) In regulation 21A(b) (treatment of child care charges) –

(a) in paragraph (1), for sub-paragraph (c), there shall be substituted the following sub-paragraph –

“(c) is a member of a couple where one member is engaged in remunerative work and the other –

(i) is incapacitated;

(ii) is an in-patient in hospital, or

(iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).”;

(b) after paragraph (1), there shall be inserted the following paragraphs –

“(1A) For the purposes of paragraph (1) and subject to paragraph (1C), a person to whom paragraph (1B) applies shall be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he –

(a) is paid statutory sick pay;

(b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the Contributions and Benefits Act;

(c) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support (General) Regulations (Northern Ireland) 1987(c), or

(d) is credited with earnings on the grounds of incapacity for work under regulation 8B of the Social Security (Credits) Regulations (Northern Ireland) 1975(d).

(1B) This paragraph applies to a person who was engaged in remunerative work immediately before –

(a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit or income support on the grounds of incapacity for work, or

(b) the first day of the period in respect of which earnings are credited,

as the case may be.

(1C) In a case to which paragraph (1A)(c) or (d) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.”;

(c) in paragraph (2ZB)(e) –

(i) at the end of sub-paragraph (a), for “, or” there shall be substituted “;”;

(ii) at the end of sub-paragraph (b), for “.” there shall be substituted “, or”;

(iii) after sub-paragraph (b), there shall be added the following sub-paragraph –

“(c) in respect of care provided by a relative of a child wholly or mainly in the child's home.”;

(d) in paragraph (2ZC)(f) –

(i) sub-paragraphs (a), (c) and (d) shall be omitted;

(ii) at the end of sub-paragraph (e), for “.” there shall be substituted “, or”;

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(a) S.R. 2003 No. 197

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

(c) S.R. 1987 No. 459

(d) S.R. 1975 No. 113

(e) Paragraph (2ZB) was substituted by regulation 4(2) of S.R. 1999 No. 298

(f) Paragraph (2ZC) was substituted by regulation 4(2) of S.R. 1999 No. 298

- (iii) after sub-paragraph (e), there shall be added the following sub-paragraph –
    - “(f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002(a).” ;
  - (e) in paragraph (7)(b)(b) for “incurred” there shall be substituted “is incurring” and “in that week” shall be omitted;
  - (f) paragraph (10)(c) shall be omitted.
- (4) After regulation 24 (average weekly income other than earnings), there shall be inserted the following regulation –

**“Calculation of average weekly income from tax credits**

- 24A.**—(1) This regulation applies where a claimant receives a tax credit.
- (2) Where this regulation applies, the period over which a tax credit is to be taken into account shall be the period set out in paragraph (3).
- (3) Where the instalment in respect of which payment of a tax credit is made is –
- (a) a daily instalment, the period is one day, being the day in respect of which the instalment is paid;
  - (b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;
  - (c) a two weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid;
  - (d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.
- (4) For the purposes of this regulation “tax credit” means child tax credit or working tax credit.”.
- (5) In regulation 25(d) (calculation of weekly income) for “22 and 24 (average weekly earnings of employed earners and average weekly income other than earnings)” there shall be substituted “22 (average weekly earnings of employed earners), 24 (average weekly income other than earnings) and 24A (calculation of average weekly income from tax credits)”.
- (6) In regulation 27 (treatment of child care charges) –
- (a) in paragraph (1), for sub-paragraph (c), there shall be substituted the following sub-paragraph –
    - “(c) is a member of a couple where one member is engaged in remunerative work and the other –
      - (i) is incapacitated;
      - (ii) is an in-patient in hospital, or
      - (iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence). ”;
  - (b) after paragraph (1), there shall be inserted the following paragraphs –
    - “(1A) For the purposes of paragraph (1) and subject to paragraph (1C), a person to whom paragraph (1B) applies shall be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he –
      - (a) is paid statutory sick pay;
      - (b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the Contributions and Benefits Act;
      - (c) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support (General) Regulations (Northern Ireland) 1987, or

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(a) 2002 c. 21  
 (b) Paragraph (7) was inserted by regulation 3 of S.R. 2001 No. 259 and substituted by regulation (4) of S.R. 2002 No. 363  
 (c) Paragraph (10) was inserted and numbered as paragraph (8) by S.R. 2001 No. 259 and substituted and renumbered as paragraph (10) by S.R. 2002 No. 363  
 (d) Regulation 25 was amended by regulation 3 of S.R. 1994 No. 88

(d) is credited with earnings on the grounds of incapacity for work under regulation 8B of the Social Security (Credits) Regulations (Northern Ireland) 1975.

(1B) This paragraph applies to a person who was engaged in remunerative work immediately before –

(a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit or income support on the grounds of incapacity for work, or

(b) the first day of the period in respect of which earnings are credited,

as the case may be.

(1C) In a case to which paragraph (1A)(c) or (d) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.”;

(c) in paragraph (4) –

(i) at the end of sub-paragraph (a), for “, or” there shall be substituted “;”;

(ii) at the end of sub-paragraph (b), for “.” there shall be substituted “, or”;

(iii) after sub-paragraph (b), there shall be added the following sub-paragraph –

“(c) in respect of care provided by a relative of a child wholly or mainly in the child’s home.”;

(d) in paragraph (5) –

(i) sub-paragraphs (a), (c) and (d) shall be omitted;

(ii) at the end of sub-paragraph (e) for “;” there shall be substituted “, or”;

(iii) after sub-paragraph (e), there shall be added the following sub-paragraph –

“(f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002.”;

(e) in paragraph (11)(b) for “incurred” there shall be substituted “is incurring” and “in that week” shall be omitted;

(f) paragraph (14) shall be omitted.

(7) After regulation 27 (treatment of child care charges), there shall be inserted the following regulation –

**“Calculation of average weekly income from tax credits**

**27A.**—(1) This regulation applies where a claimant receives a tax credit.

(2) Where this regulation applies, the period over which a tax credit is to be taken into account shall be the period set out in paragraph (3).

(3) Where the instalment in respect of which payment of a tax credit is made is –

(a) a daily instalment, the period is one day, being the day in respect of which the instalment is paid;

(b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;

(c) a two weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid;

(d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.

(4) For the purposes of this regulation “tax credit” means working tax credit.”.

(8) In paragraph 15(a) of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) –

(a) in sub-paragraph (1)(b), after “sub-paragraph (2)” there shall be inserted “or (2A)”;

(b) after sub-paragraph (2), there shall be inserted the following sub-paragraph –

“(2A) Subject to sub-paragraph (3) –

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(a) Paragraph 15 was substituted by regulation 11(a) of S.R. 1990 No. 345

(b) Sub-paragraph (1) was amended by regulation 3(1)(a) and (2)(a) of S.R. 2002 No. 299

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within sub-paragraph (a) or (b)) from a trust whose funds are derived from a payment made in consequence of any personal injury to the claimant.”;
- (c) in sub-paragraph (3)(a) for “Sub-paragraphs (1) and (2)” there shall be substituted “Sub-paragraphs (1) to (2A)”;
- (d) in sub-paragraph (6)(b) –
  - (i) paragraphs (a) to (c) shall be omitted, and
  - (ii) in paragraph (e) for “sub-paragraphs (a) to (d)” there shall be substituted “paragraph (d)”.

Sealed with the Official Seal of the Department for Department for Social Development on 21st March 2005.

(L.S.)

*John O’Neill*

A senior officer of the Department for Social Development

The Department of Finance and Personnel hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 22nd March 2005.

(L.S.)

*Ciaran Doran*

A senior officer of the Department of Finance and Personnel

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(a) Sub-paragraph (3) was substituted by regulation 3(3)(a) of S.R. 1991 No. 520  
(b) Sub-paragraph (6) was added by regulation 3(1)(d) and (2)(a) of S.R. 2002 No. 299

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations make various amendments to the Housing Benefit (General) Regulations (Northern Ireland) 1987 (“the Housing Benefit Regulations”).

The Housing Benefit Regulations were modified by the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003 (“the 2003 Regulations”) for persons who have attained the qualifying age for state pension credit (except where regulation 2(2) of the 2003 Regulations applies). These Regulations apply to the Housing Benefit Regulations as so modified and as not so modified, as set out in regulations 2(1) and (2).

Regulation 2(3) amends regulation 21A of the Housing Benefit Regulations. Sub-paragraph (a) provides for child care charges to be deducted where the claimant is a member of a couple one of whom is in remunerative work and the other is incapacitated, an in-patient in hospital or in prison. Sub-paragraph (b) inserts three new paragraphs into regulation 21A. Inserted paragraph (1A) provides for a person to whom paragraph (1B) applies to be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he is paid statutory sick pay, lower rate incapacity benefit or income support on the grounds of incapacity for work or is credited with earnings on the grounds of incapacity for work. Inserted paragraph (1B) applies to a person who was engaged in remunerative work immediately before the first day of the period in respect of which he was first paid those benefits or those earnings are credited. Inserted paragraph (1C) provides that where paragraph (1A)(c) or (d) applies the period of 28 weeks begins on the day the person is first paid income support or the first day of the period in respect of which earnings are credited. Sub-paragraph (c) adds care provided by a relative of a child wholly or mainly in the child’s home to the list of child care charges which are not relevant child care charges for the purposes of regulation 21A. Sub-paragraph (d) adds to the list of child care providers child care provided by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002 (c. 21) and makes other minor technical amendments. Sub-paragraph (e) makes consequential amendments upon the omission of paragraph (10) of regulation 21A, made by sub-paragraph (f).

Regulation 2(4) inserts Regulation 24A which provides that where a claimant receives child tax credit or working tax credit the instalments in respect of which that tax credit payment is made shall be taken into account in respect of a specified period.

Regulation 2(5) makes an amendment consequent upon the amendment made by paragraph (4).

Regulation 2(6) and (7) mirror the amendments made by paragraphs (3) and (4) respectively for persons who have attained the qualifying age for state pension credit.

Regulation 2(7) mirrors the amendments made by paragraph (4) for persons who have attained the qualifying age for state pension credit except in so far as the inserted provision is regulation 27A.

Regulation 2(8) amends paragraph 15 of Schedule 4 to provide that charitable payments, voluntary payments and payments from a trust whose funds are derived from a payment made in consequence of any personal injury to the claimant shall be disregarded in the calculation of income other than earnings, other than when sub-paragraph (3) of that paragraph applies.

These Regulations do not impose any charge on business.

Printed in the UK by The  
Stationery Office Limited  
under the authority and  
superintendence of Carol  
Tullo, Controller of  
Her Majesty's Stationery  
Office being the Government  
Printer for Northern Ireland and  
the Officer appointed to print the  
Acts of the Northern Ireland Assembly  
Dd. N2004. C2. 3/05. Gp. 130. 14567.

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£3.00

Published by The Stationery Office Limited

ISBN 0-337-95918-8



9 780337 959189