

2009 No. 262

HOUSING; RATES; SOCIAL SECURITY

**The Social Security (Deemed Income from Capital) Regulations
(Northern Ireland) 2009**

Made - - - - - *7th July 2009*

Coming into operation - - - - - *2nd November 2009*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 132(2) and (4) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), and now vested in it(b), and sections 15(2) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(c).

Regulation 3 is made with the consent of the Department of Finance and Personnel(d).

The Social Security Advisory Committee has agreed that proposals in respect of regulation 3 should not be referred to it(e).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Deemed Income from Capital) Regulations (Northern Ireland) 2009 and shall come into operation on 2nd November 2009.

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

Amendment of the State Pension Credit Regulations

2. In regulation 15 of the State Pension Credit Regulations (Northern Ireland) 2003(g) (income for the purposes of the Act)—

(a) for paragraph (6) substitute—

“(6) For the purposes of section 15(2) of the Act (deemed income from capital) and subject to regulation 17(8) (capital to be disregarded), a claimant’s capital shall be deemed to yield a weekly income of—

(a) 1992 c. 7; 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) 2002 c. 14 (N.I.)

(d) 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

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

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

(g) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2005 No. 458

- (a) £1 for each £500 in excess of £10,000; and
- (b) £1 for any excess which is not a complete £500.”; and
- (b) omit paragraphs (7)(a) and (8).

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations

3.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(b) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 27 (meaning of “income”)—

(a) for paragraph (2) substitute—

“(2) For the purposes of these Regulations and subject to regulation 42(2), a claimant’s capital shall be treated as if it were a weekly income of—

- (a) £1 for each £500 in excess of £10,000; and
- (b) £1 for any excess which is not a complete £500.”; and

(b) omit paragraphs (6) and (7).

(3) For paragraph 25 of Schedule 6 (amounts to be disregarded in the calculation of income other than earnings) substitute—

“25. Where the total value of any capital specified in Part II of Schedule 7 does not exceed £10,000, any income actually derived from such capital.”.

Revocation

4. Paragraph 4 of Schedule 4 to the Social Security (Residential Care Homes, Nursing Homes and Independent Hospitals) Regulations (Northern Ireland) 2005(c) (Amendment of the State Pension Credit Regulations) is revoked.

Sealed with the Official Seal of the Department for Social Development on 7th July 2009

(L.S.)

Anne McCleary

A senior officer of the Department for Social Development

The Department of Finance and Personnel consents to regulation 3.

Sealed with the Official Seal of the Department of Finance and Personnel on 8th July 2009

(L.S.)

Adrian Arbuthnot

A senior officer of the Department of Finance and Personnel

(a) Paragraph 7 was amended by paragraph 4 of Schedule 4 to, S.R. 2005 No. 458
(b) S.R. 2006 No. 406; to which there are amendments not relevant to these Regulations
(c) S.R. 2005 No. 458

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the State Pension Credit Regulations (Northern Ireland) 2003 and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006.

Regulations 2 and 3 provide for an increase in the £6,000 limits beneath which capital is not taken to generate income for the purposes of calculating benefit. As the limits for claimants residing permanently in specified accommodation which provides care for the claimant are £10,000, a common limit of £10,000 will apply to all claimants who have attained state pension credit age.

Regulation 4 makes a consequential revocation.

In so far as these Regulations are required, for the purposes of regulation 3, to be referred to the Social Security Advisory Committee under section 149(2) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8), after agreement by the Social Security Advisory Committee, they have not been so referred by virtue of section 150(1)(b) of that Act. Otherwise they make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, that Act, are not subject to the requirement of section 149(2) for prior reference to the Social Security Advisory Committee.

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