
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 382

The Housing Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 2009

Amendment of the Housing Benefit Regulations

2.—(1) The Housing Benefit Regulations (Northern Ireland) 2006⁽¹⁾ are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(1) (interpretation) after the definition of “the Employment and Support Allowance Regulations”⁽²⁾ insert—

““equity-sharing lease” means a lease of land, the general effect of which is to provide—

- (a) that, in consideration for the granting of the lease, the lessee shall pay a capital sum, representing a part payment in respect of the cost of acquisition of the premises demised, and a rent; and
- (b) that the lessee may make additional part payments towards the said cost of acquisition and may exercise an option to purchase the whole or part of the lessor’s reversion in the premises demised;”.

(3) In regulation 13(2)(a) (rent) after “owner” insert “except under an equity-sharing lease in respect of payments specified in paragraph (1)(a) and (e)”.

(4) In regulation 99 (method of recovery)—

- (a) omit paragraph (2);
- (b) in paragraph (3)⁽³⁾ omit “(2),”;
- (c) in paragraph (5) after “Schedule 5” insert “, or paragraph 10A of that Schedule in a case where the amount of earnings to be disregarded under that paragraph is the amount referred to in regulation 45(2) of the Employment and Support Allowance Regulations or regulation 17(2) of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995⁽⁴⁾,”; and
- (d) in paragraph (6) omit “, except as made under paragraph (2),”.

(5) After regulation 101 (sums to be deducted in calculating recoverable overpayments) insert—

“Sums to be deducted in calculating recoverable overpayments where the claimant has changed dwelling

101A.—(1) This regulation applies where an overpayment has occurred in the following circumstances—

(1) [S.R. 2006 No. 405](#); relevant amending Rules are [S.R. 2008 Nos. 378 and 504](#) and [S.R. 2009 No. 89](#)
(2) The definition of “the Employment and Support Allowance Regulations” was inserted by regulation 3(2)(a)(v) of [S.R. 2008 No. 378](#)
(3) Paragraph (3) was amended by regulation 2(3)(c) of [S.R. 2008 No. 504](#)
(4) [S.R. 1995 No. 41](#); regulation 17 was substituted by regulation 2(4) of [S.R. 2006 No. 150](#) and amended by regulation 4(b) of [S.R. 2008 No. 375](#) and regulation 4 of [S.R. 2009 No. 318](#)

- (a) a claimant has moved from the dwelling previously occupied as his home (“dwelling A”) to another dwelling which he occupies as his home (“dwelling B”);
- (b) the claimant has been awarded housing benefit in the form of a rent allowance in respect of dwelling A to which he is not entitled because he is no longer occupying or treated as occupying dwelling A as his home; and
- (c) housing benefit is paid to the same person in respect of the claimant’s occupation of dwelling B as it was paid to in respect of dwelling A.

(2) Where this regulation applies, in calculating the amount of the overpayment which is recoverable the relevant authority may at its discretion deduct an amount equal to the claimant’s weekly entitlement to housing benefit in respect of dwelling B for the number of benefit weeks equal to the number of weeks during which the claimant was overpaid housing benefit in respect of dwelling A.

(3) Where a sum has been deducted under paragraph (2), an equivalent sum shall be treated as having been paid in respect of the claimant’s entitlement to housing benefit in respect of dwelling B for the number of benefit weeks equal to the number of weeks during which the claimant was overpaid housing benefit in respect of dwelling A.”.

(6) In Schedule 5 (sums to be disregarded in the calculation of earnings)—

(a) after paragraph 10 insert—

“10A.—(1) Where—

- (a) the claimant (or if the claimant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Department is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 12 does not apply,

the amount specified in sub-paragraph (7) (“the specified amount”).

(2) Where this paragraph applies, paragraphs 3 to 10 do not apply; but in any case where the claimant is a lone parent, and the specified amount would be less than the amount specified in paragraph 4, then paragraph 4 applies instead of this paragraph.

(3) Notwithstanding regulation 22, if sub-paragraph (1) applies to one member of a couple (“A”) it shall not apply to the other member of that couple (“B”) except to the extent provided in sub-paragraph (4).

(4) Where A’s earnings are less than the specified amount, there shall also be disregarded so much of B’s earnings as would not when aggregated with A’s earnings exceed the specified amount; but the amount of B’s earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Department is satisfied that B is also undertaking exempt work.

(5) This sub-paragraph applies to a person who is—

- (a) in receipt of a contributory employment and support allowance;
- (b) in receipt of incapacity benefit;
- (c) in receipt of severe disablement allowance; or

(d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations (Northern Ireland) 1975⁽⁵⁾.

(6) “Exempt work” means, as the case may be, work of the kind described in—

(a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations⁽⁶⁾; or

(b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995,

and, in determining for the purposes of this paragraph whether a claimant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).”; and

(b) in paragraph 17(1)(7) for “paragraphs 3 to 10” substitute “paragraphs 3 to 10A”.

(5) S.R. 1975 No. 113; regulation 8B was inserted by regulation 2(6) of S.R. 1996 No. 430 and amended by regulation 3 of S.R. 2000 No. 404, regulation 2(2) of S.R. 2003 No. 151, regulation 2(3) of S.R. 2007 No. 306 and regulation 7(6) of S.R. 2008 No. 286

(6) Regulation 45(3) and (4) was amended by regulation 5(2) of S.R. 2009 No. 318

(7) Paragraph 17(1) was amended by Article 19(9) of S.R. 2009 No. 89