

EXPLANATORY MEMORANDUM TO
THE HOUSING BENEFIT (INCOME FROM EARNINGS) (AMENDMENT)
REGULATIONS (NORTHERN IRELAND) 2015

S.R. 2015 No.19

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 132(3) and (4) and 132A(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and now vested in it, and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Regulations restore the policy intention associated with the assessment of Housing Benefit entitlement. Regulations 2 and 3 will amend the Housing Benefit Regulations to provide that a decision maker should calculate a claimant's average weekly income from employment by reference to any amount of earnings the claimant expects to receive, as well as any earnings they have received.
- 2.2. They also clarify that those earnings should be taken into account either:
 - in the case of a new claim, on the date of the claim and the first day of each benefit week thereafter; or
 - in the case of an existing claim, the first day of the benefit week following the day the claimant commenced employment, or the first day of the benefit week following the date the claimant's

earnings changed so as to require re-estimation, and the first day of each benefit week thereafter,

even if a claimant does not actually receive those earnings from their employer in that week.

3. Background

- 3.1. A judge in the Upper Tribunal (Administrative Appeals Chamber) in considering an appeal ruled that earnings should be attributed to the period after they have been received. Therefore, an employee who is paid on the 31 December would have these earnings attributed across January. This ruling is not in keeping with the original policy intention and is in stark contrast to the way other Housing Benefit provisions work.
- 3.2. The provisions contained in these Regulations restore the policy intention that earnings should be attributed across the period in which they are earned.

4. Consultation

- 4.1. This policy has not been subject to public consultation.

5. Equality Impact

- 5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise and concluded that the changes did not have any significant implications for equality of opportunity. In light of this, the Department considered that an equality impact assessment was not necessary.

6. Regulatory Impact

- 6.1. These Regulations do not require a Regulatory Impact Assessment as they do not impose any additional costs or savings on business, charities or voluntary bodies.

7. Financial Implications

7.1. None.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that the Rule –

- (a) is not incompatible with any of the Convention rights;
- (b) is not incompatible with Community law;
- (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion; and
- (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The Regulations mirror those provisions contained in The Housing Benefit and Housing Benefit (Persons who have attained the qualifying age for state pension credit) (Income from earnings) (Amendment) Regulations 2015 (S.I. 2015/6), and are in keeping with the principle of parity between Northern Ireland and Great Britain in social security matters.

11. Additional Information

11.1. Not applicable.