
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit Regulations (Northern Ireland) 2006 (“the Housing Benefit Regulations”), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 and the State Pension Credit Regulations (Northern Ireland) 2002 (“the State Pension Credit Regulations”).

Regulation 7(11) and (12) of the Housing Benefit Regulations provides that a person who enters residential accommodation on a trial basis for the purpose of ascertaining whether the accommodation satisfies his or her needs, can receive housing benefit in respect of his former dwelling for up to 13 weeks. Regulation 2(2)(a) of these Regulations amends regulation 7(11) of the Housing Benefit Regulations so that it only applies where the person enters residential accommodation in Northern Ireland. Regulation 2(b) makes a consequential amendment to regulation 7(12).

Regulation 7(13) of the Housing Benefit Regulations provides that a person is treated as occupying the dwelling that the person normally occupies as his or her home (“main dwelling”) where the person is temporarily absent from that dwelling, for up to 13 weeks, provided that: the person intends to return to occupy the dwelling, the dwelling is not let or, as the case may be, sub-let, and the period of absence is unlikely to exceed 13 weeks. Regulation 7(13) currently makes no distinction between absences within and outside of Northern Ireland.

Regulation 2(2)(c) of these Regulations substitutes a new paragraph (13) into regulation 7 so that that paragraph only applies to persons who are temporarily absent from their home within Northern Ireland.

Regulation 2(2)(d) of these Regulations inserts new paragraphs into regulation 7. The new paragraphs provide that:

- the period of 13 weeks under paragraph (13) runs or continues to run during any period of absence from Northern Ireland (new paragraph (13A));
- if, after a period of absence from Northern Ireland, a person returns to Northern Ireland within 13 weeks of the first day of absence from the main dwelling and, whilst abroad, the person ceased to be treated as occupying the main dwelling as his or her home, paragraph (13) does not apply to the person with effect from the time that the person returns to Northern Ireland (new paragraph 13B);
- where a person is absent from Northern Ireland and occupied the main dwelling as his or her home, or was treated as so occupying it, immediately before the period of absence, the person is to be treated as occupying the main dwelling as his or her home for a period of up to 4 weeks beginning on the first day of the person’s absence from Northern Ireland (new paragraphs (13C) and (13D));
- if the absence from Northern Ireland is in connection with the death of: a partner, a child or young person for whom the person or the person’s partner is responsible, a close relative of the person or the person’s partner’s or a close relative of a child or young person for whom the person or the person’s partner is responsible, then the period of 4 weeks may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return within the first 4 weeks (new paragraph (13E));
- if the person is absent from Northern Ireland and is a member of Her Majesty’s forces posted overseas, a mariner or a continental shelf worker, the person is to be treated as occupying the

Status: This is the original version (as it was originally made).

main dwelling as his or her home whilst the person is temporarily absent, for up to 26 weeks beginning on the first day of the person's absence from Northern Ireland (new paragraph (13F) and (13G)).

Regulations 2(2)(e) to (f) of these Regulations amends paragraphs (16) and (17) of regulation 7 of the Housing Benefit Regulations. Those paragraphs currently provide that a person is to be treated as occupying the main dwelling as his or her home for up to 52 weeks where the person is temporarily absent therefrom in the circumstances set out in paragraph (16).

Regulations 2(2)(f) of these Regulations amends paragraphs (17) of regulation 7 and regulation 2(2)(g) inserts new paragraphs (17A) to (17D) into that regulation. Those new paragraphs provide that where a person to whom paragraph (16) applies is absent from Northern Ireland, the person is to be treated as occupying the dwelling as his or her home for up to 4 weeks beginning on the first day of his or her absence from Northern Ireland, unless the person is a person to whom any of sub-paragraphs (c)(ii), (iii), (vii) and (x) of paragraph (16) apply, in which case the person is to be treated as occupying the dwelling for up to 26 weeks.

The period remains at 52 weeks if the person is absent within Northern Ireland. The period 52 weeks under paragraph (17) runs or continues to run during any period of absence from Northern Ireland, but if a person returns to Northern Ireland after a period of absence abroad within 52 weeks beginning with the first day of absence from the main dwelling and, whilst abroad, the person ceased to be treated as occupying the main dwelling as his or her home, then paragraph (17) does not apply to that person when the person returns to Northern Ireland.

Linked to these changes, regulation 2(2)(e) makes various technical changes to paragraph (16) of regulation 7. In particular it amends paragraph (16)(d) to reduce the period that the absence must be unlikely to exceed, or in exceptional circumstances unlikely substantially to exceed, so as to align with changes to periods of time referred to above.

Regulations 2(2)(h), (3), (4) and (5) of these Regulations makes amendments which are consequential to the above changes.

Regulation 3 makes similar amendments to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006.

Regulation 3 of the State Pension Credit Regulations currently allows for a claimant's entitlement to State Pension Credit to continue where the claimant is absent from Northern Ireland for up to 13 weeks, the period of absence is unlikely to exceed 52 weeks and the claimant continues to satisfy the other conditions of entitlement during his or her absence. Regulation 4(2) of these Regulations inserts new regulation 3 into the State Pension Credit Regulations which replaces this 13 week period with a 4 week period, providing the absence is not expected to exceed 4 weeks. New regulation 3(2) provides that a claimant's entitlement can continue for up to 8 weeks where the absence is in connection with the death of the claimant's partner, or a child or qualifying young person normally living with the claimant, or the death of a close relative of one of these or a close relative of the claimant. New regulation 3(3) allows for entitlement to continue during an absence of up to 26 weeks where the claimant is undergoing medical treatment or convalescence or care, or is accompanying a partner or a child or qualifying young person normally living with the claimant for medical treatment or convalescence or care.

Regulation 4(5) inserts a definition of "qualifying young person" into the State Pension Credit Regulations.

Regulation 5(1)(f) of the State Pension Credit Regulations currently allows for a person to continue to be treated as being a member of the claimant's household when the person is absent from Northern Ireland for up to 13 weeks. Regulation 4(6) amends this so that the person is subject to the same rules on temporary absence as the claimant.

Regulation 4(7), 4(9) and (10) makes changes to certain Schedules to the State Pension Credit Regulations so that the definitions of "qualifying young person" and "child" cross-refer to

regulation 4A of those Regulations and Article 46 of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)) respectively.

Regulation 4(8) applies the provisions relating to polygamous marriages to regulation 3 of the State Pension Credit Regulations.

Regulation 5 makes transitional provision such that the amendments in regulations 2 and 3 do not apply in respect of a person who is temporarily absent from Northern Ireland on 30th January 2017 until he or she returns to Northern Ireland unless the person is a member of Her Majesty's forces posted overseas, a continental shelf worker or a mariner. Regulation 5 also provides that regulation 4 does not apply to a person who is temporarily absent from Northern Ireland on 30 January 2017 until the person returns to Northern Ireland.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c.8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.