

2022 No. 211

SOCIAL SECURITY

The Housing Benefit and Universal Credit (Victims of Domestic Abuse and Victims of Modern Slavery) (Amendment) Regulations (Northern Ireland) 2022

Made - - - - *8th September 2022*

Coming into operation *1st October 2022*

The Department for Communities(a), in exercise of the powers conferred by sections 122(1)(d), 129A(2), (3) and (4), 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b), and now vested in it(c), and Articles 16(4), 48(1), (2) and (5), 101(1) and (4)(a) of the Welfare Reform (Northern Ireland) Order 2015(d) makes the following Regulations.

The powers are exercisable by the Department for Communities by virtue of Article 2 of the Welfare Reform (Northern Ireland) Order 2015 (Cessation of Transitory Provision) Order 2020(e).

Citation, Commencement and Interpretation

1.—(1) These Regulations may be cited as the Housing Benefit and Universal Credit (Victims of Domestic Abuse and Victims of Modern Slavery) (Amendment) Regulations (Northern Ireland) 2022 and come into operation on 1st October 2022.

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

Amendments to the Housing Benefit Regulations

2.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(g) are amended as follows—

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “close relative” insert—

““coercive behaviour” means an act of assault, humiliation or intimidation or other abuse that is used to harm, punish or frighten the victim;

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- (a) The Department for Social Development was renamed the Department for Communities in accordance with section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))
- (b) 1992 c.7. Section 129A was inserted by section 30(2) of the Welfare Reform Act (Northern Ireland) 2007 (c.2) and amended by Article 75(2) and (3) of the Welfare Reform (Northern Ireland) Order 2015 (SI 2015/2006) (N.I.1); section 171(1) is cited for indicating that regulations and orders under this Act shall be made by the Department
- (c) See Article 8(b) of S.R. 1999 No. 481
- (d) 2015 No. 2006 (N.I. 1)
- (e) S.R. 2020 No. 927
- (f) 1954 c. 33 (N.I.)
- (g) S.R. 2006 No. 405

“competent authority” means a person who is a competent authority within the meaning of the Trafficking Convention;

“compulsory labour”, “forced labour”, “servitude” and “slavery” have the same meaning as in Article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the United Kingdom;”;

- (b) after the definition of “contributory employment and support allowance”(a) insert—
- ““controlling behaviour” means an act designed to make a person subordinate or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance or escape or regulating their everyday behaviour;”;
- (c) after the definition of “disability living allowance” insert—
- ““domestic violence” means any incident, or pattern of incidents, of controlling behaviour, coercive behaviour, violence or abuse, including but not limited to—
- (a) psychological abuse;
 - (b) physical abuse;
 - (c) sexual abuse;
 - (d) emotional abuse;
 - (e) financial abuse,
- regardless of the gender or sexuality of the victim;”;
- (d) after “a guaranteed income payment” insert—
- ““health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(b);”;
- (e) after the definition of “pension fund holder”(c) insert—
- ““person acting in an official capacity”, where it appears in the definition of “young individual”, means a health care professional, a police officer, a registered social worker, the victim’s employer or any public, voluntary, or charitable body which has had direct contact with the victim in connection with domestic violence;”;
- (f) after the definition of “polygamous marriage” insert—
- ““positive conclusive grounds determination relating to modern slavery” means a determination made by a competent authority that an individual is a victim of trafficking in human beings, slavery, servitude or forced or compulsory labour;”;
- (g) after the definition of “registered housing association”(d) insert—
- ““registered social worker” means a person registered as a social worker in a register maintained by—
- (a) Social Work England;
 - (b) Social Care Wales;
 - (c) The Scottish Social Services Council; or
 - (d) the Northern Ireland Social Care Council;”;
- (h) in the definition of “relative” at the end insert—

(a) This definition was substituted by regulation 34(2)(a) of S.R. 2016 No. 236

(b) 2002 c. 17. Section 25(3) was amended by paragraph 10(2) of Part 1 of Schedule 4 to S.I. 2010/231, paragraphs 17(1) to (3) of Schedule 10 to S.I. 2008/3244, section 220(6) and paragraph 56(b) of Part 2 of Schedule 15 to S.I. 2012/1319, paragraph 2 of Schedule 4 to 2017 c.16

(c) This definition was amended by S.R. 2007 No. 306

(d) This definition was inserted by S.R. 2008 No. 101

“except where it appears within the definition of “young individual” and within Regulation A14 where it has the meaning given by Article 2(2) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998(a);”;

- (i) after the definition of “tax year” insert—
 - ““the Trafficking Convention” means the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16th May 2005)”;
 - “trafficking in human beings” has the same meaning as in the Trafficking Convention;”;
- (j) in the definition of “young individual”(b), after paragraph (f) insert—
 - “(g) who—
 - (i) after attaining the age of 16 had domestic violence inflicted upon or threatened against them (“the victim”) by their partner or former partner, or by a relative; and
 - (ii) provides evidence to the relevant authority from a person acting in an official capacity that demonstrates that—
 - (aa) the victim’s circumstances are consistent with their having had domestic violence inflicted upon or threatened against them; and
 - (bb) the victim has contacted a person acting in an official capacity in relation to such an incident;
 - (h) who has been the subject of a positive conclusive grounds determination relating to modern slavery;”.

(3) Omit regulation 13D (transitional protection-reduction in LHA)(c).

(4) In regulation A14(5) (when a maximum rent (social sector) is to be determined)(d), omit the definitions of “domestic violence”, “health care professional”, “registered social worker” and “relative”.

(5) In regulation 73H(6) (specified accommodation), omit the definitions of “coercive behaviour”, “controlling behaviour” and “domestic violence”.

Amendment of the Universal Credit Regulations

3.—(1) Schedule 4 (housing costs elements for renters) to the Universal Credit Regulations (Northern Ireland) 2016(e) is amended as follows.

- (2) In paragraph 2 (interpretation)—
 - (a) before “exempt accommodation” insert—
 - ““domestic violence” has the meaning given by regulation 96(5);”;
 - (b) after “registered housing association” insert—
 - ““relative” has the meaning given by Article 2(2) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998;”.
- (3) In paragraph 28 (renters excepted from shared accommodation)—
 - (a) in sub-paragraph (1)(f) for “(5A)” substitute “(5C)”;
 - (b) after sub-paragraph (5A)(g) insert—
 - “(5B) E is under 35 years old and—

(a) 1998 No. 1071 (N.I. 6)

(b) This definition was amended by S.R. 2011 No. 51, S.R. 2011 No. 293, S.R. 2016 No. 326, and S.R. 2021 No. 118

(c) Regulation 13D inserted by regulation 2(4) of S.R. 2011 No. 51

(d) Regulation A14 inserted by regulation 5(7) of S.R. 2016 No. 326 and amended by regulation 2(a) and (b) of S.R. 2021 No. 248

(e) S.R. 2016 No. 216

(f) Words in sub-paragraph (1) substituted by regulation 3(8)(c)(i) of S.R. 2018 No. 187

(g) Paragraph 5A inserted by regulation 3(8)(c)(ii) of S.R. 2018 No. 187

- (a) after attaining the age of 16 had domestic violence inflicted upon or threatened against them (“the victim”) by their partner or former partner, or by a relative; and
- (b) provides evidence from a person acting in an official capacity which demonstrates that—
 - (i) the victim’s circumstances are consistent with their having had domestic violence inflicted upon or threatened against them; and
 - (ii) the victim has contacted a person acting in an official capacity in relation to such an incident.

(5C) E is under 35 years old and has been the subject of a positive conclusive grounds determination relating to modern slavery.”;

(c) in sub-paragraph (6)—

- (i) after the definition of ““care home”, “registered charity” and “voluntary organisation”” insert—

““competent authority” means a person who is a competent authority within the meaning of the Trafficking Convention;

“compulsory labour”, “forced labour”, “servitude” and “slavery” have the same meaning as in Article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the United Kingdom;”;

- (ii) after the definition of “hostel for homeless people” insert—

““person acting in an official capacity” means a health care professional (within the meaning given by regulation 96(5)), a police officer, a registered social worker (within the meaning given by regulation 96(5)), the victim’s employer, or any public, voluntary, or charitable body which has had direct contact with the victim in connection with domestic violence;

“positive conclusive grounds determination relating to modern slavery” means a determination made by a competent authority that an individual is a victim of trafficking in human beings, slavery, servitude or forced or compulsory labour;

“the Trafficking Convention” means the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16th May 2005);

“trafficking in human beings” has the same meaning as in the Trafficking Convention.”.

(4) In paragraph 35(6)(b)(a) (under-occupancy deduction)—

- (a) for ““domestic violence” and “person acting in an official capacity” have the meaning given to them in regulation 96(5) of these Regulations;” substitute ““person acting in an official capacity” has the meaning given to it in regulation 96(5) of these Regulations;”;
- (b) omit the definition of “relative”.

Sealed with the Official Seal of the Department for Communities on 8th September 2022
(L.S.)

Anne McCleary
A senior officer of the Department

(a) Sub-paragraph 35(6) inserted by regulation 3 of S.R. 2021 No. 248

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit Regulations (Northern Ireland) 2006 (S.R. 2006 No. 405) (“the Housing Benefit Regulations”) and the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216) (“the Universal Credit Regulations”). They extend the scope of the exemptions from the shared accommodation rate for the Local Housing Allowance (“LHA”) (and the Single Room Rent (SRR) in the case of Housing Benefit) to include victims of domestic violence who have attained the age of 16 and victims of modern slavery (“the relevant victims”).

Regulation 2 amends the definition of “young individual” in regulation 2 of the Housing Benefit Regulations to exclude the relevant victims. As the definition of “young individual” will now exclude the relevant victims, those victims will fall outside the scope of regulation 14(5), which provides that in the case of a “young individual” the maximum rent will be the SRR, unless one of the specified exceptions applies.

In the same way, regulation 14D (determination of a maximum rent (LHA)), will also not apply to the relevant victims, as they will fall outside the definition of “young individual” and therefore outside the scope of regulation 14D(2)(a)(i), which provides that where the claimant is a “young individual” the one bedroom shared accommodation rate applies, subject to specified exceptions.

The meaning of “relative”, as used within the definition of “young individual”, is also amended so that it has the meaning given by Article 2(2) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998.

Regulation 3, amends paragraph 28 of Schedule 4 to the Universal Credit Regulations (renters excepted from shared accommodation) to include the relevant victims within the list of renters excepted from the shared accommodation rate. Regulation 3 also amends paragraph 2 of Schedule 4 so that “relative”, as it appears within paragraphs 28 and 35, has the meaning given by Article 2(2) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998.

These Regulations make in relation to Northern Ireland 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, 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.

A full impact assessment has not been produced for this rule as no, or no significant, impact on the private, voluntary, or public sector is foreseen.

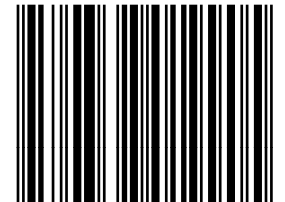
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