
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 456

Housing Renovation etc. Grants (Reduction of Grant) Regulations (Northern Ireland) 1997

Part I

General

Citation and commencement

1. These Regulations may be cited as the Housing Renovation, etc. Grants (Reduction of Grant) Regulations (Northern Ireland) 1997 and shall come into operation on 24th November 1997.

Interpretation

2.—(1) In these Regulations—

“the Order” means the Housing (Northern Ireland) Order 1992;

“application” means an application within Article 47(1) of the Order;

“assessment period” means such period as is prescribed in regulations 19 to 21 over which income falls to be determined;

“attendance allowance” means—

- (a) an attendance allowance under section 64 of the 1992 Act;
- (b) an increase of disablement pension under section 104 of that Act;
- (c) a payment under regulations made in exercise of the power conferred by paragraph 4(2) (b) of Schedule 8 to that Act;
- (d) a payment analogous to a payment by way of an increase of an allowance payable in respect of constant attendance under paragraph 4 of Schedule 8 to the Social Security Contributions and Benefits Act 1992(1);
- (e) a payment by virtue of Article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(2) or any analogous payment;
- (f) any payment based on need for attendance which is paid as part of a war disablement pension;

“charity” has the meaning given by section 35 of the Charities Act (Northern Ireland) 1964(3), and “charitable body” shall be construed accordingly;

“child” means a person under the age of 16;

“child benefit” means a child benefit under Part IX of the 1992 Act;

(1) 1992 c. 4; to which there are no relevant amendments

(2) S.I. 1983/686; the relevant amending instrument is S.I. 1984/1675

(3) 1964 c. 33 (N.I.); to which there are no relevant amendments

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple;

“community charge benefit” means community charge benefits under Part VII of the Social Security Contributions and Benefits Act 1992(4);

“community charge rebate” means a rebate under the provisions of section 24(a) of the Abolition of Domestic Rates, Etc, (Scotland) Act 1987(5);

“concessionary payment” means a payment made under arrangements made by the Department of Health and Social Services, with the consent of the Department of Finance and Personnel, which is charged either to the Northern Ireland National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit under the 1992 Act are charged;

“council tax benefit” means council tax benefit under Part VII of the Social Security Contributions and Benefits Act 1992;

“disability living allowance” means a disability living allowance under section 71 of the 1992 Act;

“disability working allowance” means a disability working allowance under section 128 of the 1992 Act;

“earnings” has the meaning assigned by regulation 23 or, as the case may be, 25;

“employed earner” means a person who is gainfully employed in Northern Ireland or the Republic of Ireland either under a contract of service, or in an office (including elective office) with emoluments chargeable to income tax under Schedule E or, as the case may be, chargeable under the legislation of the Republic of Ireland which is analogous to income tax under Schedule E, and also includes a person who is in receipt of a payment which is payable under any statutory provision having effect in Great Britain and which corresponds to statutory sick pay or statutory maternity pay(6);

“family” means—

- (a) a married or unmarried couple;
- (b) a married or unmarried couple and a member of the same household for whom one of them is, or both are, responsible and who is a child or a young person;
- (c) a person who is not a member of a married or unmarried couple and a member of the same household for whom that person is responsible and who is a child or a young person;

“the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992, or in Scotland, on 10th April 1992;

“Health and Social Services Board” means a Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(7);

“higher rate” where it relates to rates of tax means any rate of income tax determined in pursuance of section 1(2)(b) of the Income and Corporation Taxes Act 1988(8);

“housing benefit” means housing benefit under Part VII of the 1992 Act;

(4) 1992 c. 4; to which there are no relevant amendments

(5) 1987 c. 47; section 24 was amended by paragraph 32 of Schedule 12 to the Local Government Finance Act 1988 c. 41

(6) See the Social Security Contributions and Benefits Act 1992 (c. 4), Parts XI and XII; to which there are no relevant amendments

(7) S.I. 1972/1265 (N.I. 14); to which there are no relevant amendments

(8) 1988 c. 1 section 1(2)(b) was substituted by section 24(2)(a) of the Finance Act 1988 c. 39 and amended by Article 2(2)(b) of S.I. 1993/755

“incapacity benefit” means short-term incapacity benefit or long-term incapacity benefit under section 30A of the 1992 Act⁽⁹⁾ (incapacity benefit: entitlement);

“income-based job-seeker’s allowance” means an income-based jobseeker’s allowance within Article 3(4) of the Jobseekers (Northern Ireland) Order 1995⁽¹⁰⁾;

“income-related benefit” means any benefit to which section 122(1) of the 1992 Act refers;

“income support” means income support under Part VII of the 1992 Act;

“the Independent Living Fund” means the charitable trust established out of funds provided by the Secretary of State for Social Services for the purpose of providing financial assistance to those persons incapacitated by, or otherwise suffering from, very severe disablement who are in need of such assistance to enable them to live independently;

“the Independent Living (Extension) Fund” means the Trust of that name established by a deed dated 25th February 1993 and made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part;

“the Independent Living (1993) Fund” means the Trust of that name established by a deed dated 25th February 1993 and made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part;

“invalid carriage or other vehicle” means a vehicle propelled by petrol engine or electric power supplied for use on the road and to be controlled by the occupant;

“lone parent” means a person who has no partner and who is responsible for and a member of the same household as a child or young person;

“long-term incapacity benefit” means long-term incapacity benefit under Part II of the 1992 Act;

“lower rate” where it relates to rates of tax has the same meaning as in the Income and Corporation Taxes Act 1988 by virtue of section 832(1) of that Act⁽¹¹⁾;

“the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State for Social Services to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

“the Macfarlane (Special Payments) (No. 2) Trust” means the trust of that name, established on 3rd May 1991, partly out of funds provided by the Secretary of State for Social Security for the benefit of certain persons suffering from haemophilia and other beneficiaries;

“the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990, partly out of funds provided by the Secretary of State for Social Security for the benefit of certain persons suffering from haemophilia;

“married couple” has the meaning assigned to it by section 133 of the 1992 Act;

“maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part IX of the Employment Rights (Northern Ireland) Order 1996⁽¹²⁾;

“member of a couple” means a member of a married or unmarried couple;

“mobility supplement” means a supplement to which paragraph 7 of Schedule 3 refers;

“net earnings” means such earnings as are determined in accordance with regulation 24;

“net profit” means such profit as is determined in accordance with regulation 26;

⁽⁹⁾ Section 30A was inserted by Article 3(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

⁽¹⁰⁾ S.I. 1995/2705 (N.I. 15); to which there are no relevant amendments

⁽¹¹⁾ 1988 c. 1; the definition of “lower rate” was inserted by section 9(9) of the Finance Act 1992 c. 20

⁽¹²⁾ S.I. 1996/1919 (N.I. 16); to which there are no relevant amendments

“non-dependant” has the meaning assigned by regulation 5;

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“partner” means—

- (a) where a person is a member of a married or unmarried couple, the other member of that couple; or
- (b) where a person is polygamously married to two or more members of his household, any such member;

“payment” includes part of a payment;

“pension fund holder” means with respect to a personal pension scheme or retirement annuity contract, the trustees, managers or scheme administrators, as the case may be, of the scheme or contract concerned;

“personal pension scheme” has the same meaning as in section 1 of the Pension Schemes (Northern Ireland) Act 1993(13) and, in the case of a self-employed earner, includes a scheme approved by the Board of Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(14);

“policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

“polygamous marriage” means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;

“qualifying person” means a person in respect of whom payment has been made from the Fund;

“rates” has the same meaning as in the Rates (Northern Ireland) Order 1977(15);

“relevant person” has the meaning assigned by regulation 4;

“remunerative work” has the meaning assigned by regulation 6;

“a retirement annuity contract” means a contract or trust scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988;

“self-employed earner” means a person who is gainfully employed in Northern Ireland or the Republic of Ireland otherwise than in employed earner’s employment (whether or not he is also employed in such employment);

“short-term incapacity benefit” means short-term incapacity benefit under Part II of the 1992 Act;

“single person” means a person who neither has a partner nor is a lone parent;

“social fund payment” means a payment under section 134 of the 1992 Act;

“statutory maternity pay” means a statutory maternity pay under Part XII of the 1992 Act;

“statutory sick pay” means statutory sick pay under Part XI of the 1992 Act;

“student” has the meaning assigned by regulation 40;

(13) 1993 c. 49; to which there are no relevant amendments

(14) 1988 c. 1; to which there are no relevant amendments

(15) S.I. 1977/2157 (N.I. 28); as amended by Article 3(2) of the Rates (Amendment) (Northern Ireland) Order 1983 (S.I. 1983/421 (N.I. 7))

“supplementary benefit” means a supplementary pension or allowance under Article 3 or 6 of the Supplementary Benefits (Northern Ireland) Order 1977(16);

“the 1992 Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(17);

“training allowance” has the meaning given by regulation 2(1) of the Housing Benefit (General) Regulations (Northern Ireland) 1987(18);

“unmarried couple” means a man and woman who are not married to each other but are living together as husband and wife;

“voluntary organisation” means any association carrying on any activities otherwise than for the purpose of gain by the association or by individual members;

“war disablement pension” has the meaning assigned by section 146(2) of the 1992 Act;

“war widow’s pension” has the meaning assigned by section 146(2) of the 1992 Act;

“year of assessment” has the meaning assigned by section 832(1) of the Income and Corporation Taxes Act 1988;

“young person” means a person, not being a person who is in receipt of income support or a person who is receiving advanced education within the meaning of regulation 12(2) of the Income Support (General) Regulations (Northern Ireland) 1987(19) (relevant education), aged 16 or over but under 19 who is treated as a child for the purposes of section 138 of the 1992 Act (meaning of child).

(2) For the purposes of these Regulations, two persons shall be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.

(3) For the purposes of these Regulations, a person is on an income-based jobseeker’s allowance on any day in respect of which an income-based jobseeker’s allowance is payable to him and on any day—

- (a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker’s allowance but where the allowance is not paid in accordance with Article 21 of the Jobseekers (Northern Ireland) Order 1995(20) (circumstances in which a jobseeker’s allowance is not payable), or
- (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Order and which falls immediately before a day in respect of which an income-based jobseeker’s allowance is payable to him but for Article 21 of that Order.

Persons from abroad

3. No grant shall be payable under Part III of the Order if the applicant, or any of the applicants, is a person from abroad within the meaning of regulation 7A of the Housing Benefit (General) Regulations (Northern Ireland) 1987(21) (persons from abroad).

(16) S.I. 1977/2156 (N.I. 27); provisions of the Supplementary Benefits (Northern Ireland) Order 1977, as amended by Article 7 of, and Part I of Schedule 2 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 18)), are set out in Part II of that Schedule. Articles 3 and 6 were repealed with effect from 11th April 1988 by Schedule 10 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

(17) 1992 c. 7

(18) S.R. 1987 No. 461; the definition of “training allowance” was inserted by regulation 2(c) of the Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1990 (S.R. 1990 No. 136)

(19) S.R. 1987 No. 459; relevant amending regulations are S.R. 1990 No. 131

(20) S.I. 1995/2705 (N.I. 15); to which there are no relevant amendments

(21) S.R. 1987 No. 461; regulation 7A was inserted by S.R. 1994 No. 80 and amended by S.R. 1994 No. 266, S.R. 1996 No. 11, S.R. 1996 No. 334 and S.R. 1996 No. 448

Definition of relevant person

4.—(1) Subject to paragraph (3) in respect of any one application, other than an application for a disabled facilities grant, a relevant person is any person who—

- (a) is an applicant, or
- (b) is not an applicant but is entitled to make the application and lives or intends to live in the dwelling or, as the case may be, a flat in the building,

provided that a young person shall not be a relevant person except where he is the only applicant.

(2) Subject to paragraph (3), in respect of any one application for a disabled facilities grant a relevant person is any person who—

- (a) is the disabled occupant, or one of the disabled occupants, of the dwelling or the flat in the building and is not a child or young person for whom a relevant person is responsible by virtue of sub-paragraph (c); or
- (b) is the partner, or a partner, of the disabled occupant or of one of the disabled occupants and is not a child or young person for whom a relevant person is responsible by virtue of regulation 7; or
- (c) where the disabled occupant or any of the disabled occupants is a child or young person, is responsible for him within the meaning of regulation 7 (circumstances in which a person is to be treated as responsible or not responsible for another).

(3) Where any of sub-paragraphs (a) or (b) of paragraph (1), or any of sub-paragraphs (a), (b) and (c) of paragraph (2) applies to both members of a couple or to more than one member of a polygamous marriage, one member only of that couple or of that polygamous marriage shall be a relevant person in respect of that application.

Definition of non-dependant

5.—(1) In these Regulations, “non-dependant” means any person, except someone to whom paragraph (2) applies, who normally resides with a relevant person or with whom a relevant person normally resides.

(2) This paragraph applies to—

- (a) any members of the relevant person’s family;
- (b) if the relevant person is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
- (c) a child or young person who is living with the relevant person but who is not a member of his household by virtue of regulation 8 (membership of the same household);
- (d) subject to paragraph (3), a person who jointly occupies the relevant person’s dwelling and is either a co-owner of that dwelling with the relevant person or his partner (whether or not there are other co-owners) or is liable with the relevant person or his partner to make payments in respect of his occupation of the dwelling;
- (e) subject to paragraph (3)—
 - (i) any person who is liable to make payments on a commercial basis to the relevant person or the relevant person’s partner in respect of the occupation of the dwelling;
 - (ii) any person to whom or to whose partner the relevant person or the relevant person’s partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling; or

- (iii) any other member of the household of the person to whom or to whose partner the relevant person or the relevant person's partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling.
 - (f) a person who lives with the relevant person in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation (other than a Health and Social Services Board) which makes a charge to the relevant person or his partner for the services provided by that person.
- (3) Excepting persons to whom paragraph 2(a) to (c) and (f) refers, a person shall be a non-dependant if he resides with a relevant person to whom he is liable to make payments in respect of the dwelling and either—
- (a) that the relevant person is a close relative of him or his partner, or
 - (b) the tenancy or other agreement between them is other than on a commercial basis.
- (4) For the purposes of this regulation—
- (a) a person resides with another only if they share any accommodation but not if that accommodation is a bathroom, a lavatory or a communal area or any combination of them and not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord;
 - (b) “communal area” means an area, other than a room or rooms, of common access (including halls and passageways).

Remunerative work

6.—(1) Subject to the following provisions of this regulation, a person shall be treated for the purposes of these Regulations as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.

(2) Subject to paragraph (3), in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard shall be had to the average of hours worked over—

- (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does not work, those periods but disregarding any other absences);
- (b) in any other case, the period of 5 weeks immediately prior to the date of the application, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.

(3) Where, for the purposes of paragraph (2)(a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work shall be disregarded in establishing the average hours for which he is engaged in work.

(4) Where no recognisable cycle has been established in respect of a person's work, regard shall be had to the number of hours or, where those hours fluctuate, the average of the hours, which he is expected to work in a week.

(5) A person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(6) A person in receipt of income support or an income-based jobseeker's allowance for more than 3 days in any period of 7 consecutive days commencing upon a Monday and ending on a Sunday shall be treated as not being in remunerative work in that week.

(7) A person shall not be treated as engaged in remunerative work on any day on which the persons is on maternity leave or is absent from work because he is ill.

Circumstances in which a person is to be treated as responsible or not responsible for another

7.—(1) Subject to the following provisions of this regulation a person shall be treated as responsible for a child or young person who is normally living with him.

(2) Where there is a question as to which person a child or young person is normally living with, the child or young person shall be treated for the purposes of paragraph (1) as normally living with—

- (a) the person who is receiving child benefit in respect of him; or
- (b) if there is no such person—
 - (i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or
 - (ii) in any other case the person who has the primary responsibility for him.

(3) For the purposes of these Regulations any person other than the one treated as responsible for the child or young person under this regulation shall be treated as not so responsible.

Circumstances in which a person is to be treated as being or not being a member of the household

8.—(1) Subject to paragraphs (2) to (4), a relevant person and any partner and, where the relevant person or his partner is treated as responsible by virtue of regulation 7 (circumstances in which a person is to be treated as responsible or not responsible for another) for a child or young person, that child or young person and any child of that child or young person, shall be treated as members of the same household notwithstanding that any of them is temporarily living away from the other members of his family.

(2) Paragraph (1) shall not apply to a person who is living away from the other members of his family where—

- (a) that person does not intend to resume living with the other members of his family; or
- (b) his absence from the other members of his family is likely to exceed 52 weeks, unless there are exceptional circumstances (for example where the person is in hospital or otherwise has no control over the length of his absence) and the absence is unlikely to be substantially more than 52 weeks.

(3) A child or young person shall not be treated as a member of the relevant person's household where he is—

- (a) placed with the relevant person or his partner under a relevant enactment; or
- (b) placed with the relevant person or his partner prior to adoption; or
- (c) placed for adoption with the relevant person or his partner pursuant to a decision under the Adoption Agencies Regulations (Northern Ireland) 1989⁽²²⁾.

(4) Subject to paragraph (5), paragraph (1) shall not apply to a child or young person who is not living with the relevant person and he—

- (a) is in the care of the Department of Health and Social Services under a relevant enactment; or
- (b) has been placed with a person other than the relevant person prior to adoption; or

(22) S.R. 1989 No. 253; to which there are no relevant amendments

(c) has been placed for adoption pursuant to a decision under the Adoption Agencies Regulations (Northern Ireland) 1989.

(5) A child or young person to whom paragraph (4)(a) applies shall be treated as being a member of the relevant person's household in any period of 7 consecutive days commencing upon a Monday and ending on a Sunday where—

- (a) that child or young person lives with the relevant person for part or all of that period, and
- (b) it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.

(6) In this regulation "relevant enactment" means the Army Act 1955(23), the Air Force Act 1955(24), the Naval Discipline Act 1957(25) and the Children (Northern Ireland) Order 1995(26).

The applicable amount

9.—(1) The applicable amount in respect of any one application shall be the aggregate of—

- (a) the total of the weekly applicable amounts of all those persons who are relevant persons in the case of that application, and
- (b) £40.

(2) For the purposes of paragraph (1), the weekly applicable amount—

- (a) as regards a relevant person who is in receipt of income support or an income-based jobseeker's allowance, is £1;
- (b) as regards any other relevant person, is the amount determined in his case in accordance with regulation 13.

Financial resources

10. In respect of any one application, the amount which is to be taken to be the financial resources of the applicant or applicants shall be the total of the incomes of all those persons who are relevant persons in the case of that application, and the income of each relevant person shall be determined in accordance with regulation 17.

(23) 1955 c. 18; the relevant amending instrument is S.I. 1995/755 (N.I. 2)

(24) 1955 c. 19; the relevant amending instrument is S.I. 1995/755 (N.I. 2)

(25) 1957 c. 53; the relevant amending instrument is S.I. 1995/755 (N.I. 2)

(26) S.I. 1995/755 (N.I. 2); to which there are no relevant amendments