

1988 No. 117

HOUSING; RATES**The Housing Benefit (General) (Amendment) Regulations
(Northern Ireland) 1988***Made* 31st March 1988*Coming into operation* 1st April 1988

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 23(8) and (9), 30 and 52(1)(h) of the Social Security (Northern Ireland) Order 1986(a) and of all other powers enabling it in that behalf and with the consent of the Department of the Environment, so far as relates to matters with regard to which such consent is required, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Housing Benefit (General) (Amendment) Regulations (Northern Ireland) 1988 and shall come into operation on 1st April 1988.

(2) In these regulations “the principal regulations” means the Housing Benefit (General) Regulations (Northern Ireland) 1987(b).

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation)—

(a) after the definition of “lone parent” there shall be inserted the following definition—

“ “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;”;

(b) after the definition of “polygamous marriage” there shall be inserted the following definition—

“ “premises” where it appears in Schedules 4 and 5 means a dwelling, including any garage, garden or out-buildings together with any agricultural land adjoining that dwelling and any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately;”.

(a) S.I. 1986/1888 (N.I. 18); Article 81(1) provides for section 155(1) to (3A) of the Social Security (Northern Ireland) Act 1975 (c. 15) (extent of powers) to apply to the enabling provisions under which these regulations are made; section 155(3A) was inserted by Article 63(1)

(b) S.R. 1987 No. 461

Amendment of regulation 27 of the principal regulations

3. In regulation 27(1) of the principal regulations (treatment of charitable or voluntary payments) after “other than one” there shall be inserted “made under the Macfarlane Trust or one”.

Amendment of regulation 35 of the principal regulations

4. In regulation 35(3) of the principal regulations (notional income) after “Any payment of income” there shall be inserted “, other than a payment of income made under the Macfarlane Trust,”.

Amendment of regulation 43 of the principal regulations

5. In regulation 43(3) of the principal regulations (notional capital) after “Any payment of capital” there shall be inserted “, other than a payment of capital made under the Macfarlane Trust,”.

Amendment of regulation 44 of the principal regulations

6. In regulation 44(2) of the principal regulations (capital jointly held) after “Any premises” there shall be inserted “or land”.

Amendment of regulation 73 of the principal regulations

7. In regulation 73(1) of the principal regulations (evidence and information) at the end there shall be added “but nothing in this regulation shall require a person to furnish any certificates, documents, information or evidence relating to a payment which is disregarded under paragraph 37 of Schedule 4 or paragraph 23 of Schedule 5 (payments made under the Macfarlane Trust)”.

Amendment of regulation 77 of the principal regulations

8. In regulation 77 of the principal regulations (notification of determinations)—

- (a) the existing provision shall be numbered as paragraph (1);
- (b) after “every notification shall” there shall be inserted “, subject to paragraph (2),”;
- (c) after paragraph (1) there shall be added the following paragraphs—
 - “(2) Where the determination is made on or before 30th June 1988, the notification may, notwithstanding Schedule 6, include a statement only as to the matters set out in paragraphs 2, 3, 4, 6, 9(e), (g) and (i) and 11 of that Schedule but an authority, if it thinks fit, may include a statement as to any other matter prescribed in that Schedule.

- (3) Where a notification is given in accordance with paragraph (2) a person may request in writing the authority to provide a written statement on any matter prescribed in Schedule 6 which is not included in the notification and the authority shall send a written statement to the person requiring it within 14 days or as soon as reasonably practicable thereafter.”.

Amendment of Schedule 4 to the principal regulations

9. In Schedule 4 to the principal regulations (sums to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 15. after “children” there shall be inserted “or a payment to which paragraph 37 applies”;
- (b) in paragraph 17—
- (i) in sub-paragraph (1), for “sub-paragraph (2)” there shall be substituted “sub-paragraphs (2) and (3)”;
 - (ii) for sub-paragraph (2) there shall be substituted the following sub-paragraphs—
- “(2) Income derived from capital disregarded under paragraph 2 or 4 of Schedule 5 but, subject to sub-paragraph (3), only to the extent of any mortgage repayments and payment of rates made in respect of the premises or land in the period during which that income accrued.
- (3) Where income is derived from conacre or agistment letting any expenses reasonably incurred thereon including the repayment of interest and capital on any loan used for the purchase of land under the Northern Ireland Land Act 1925(a).”;
- (c) after paragraph 36 there shall be added the following paragraph—
- “37. Any payment made under the Macfarlane Trust.”.

Amendment of Schedule 5 to the principal regulations

10. In Schedule 5 to the principal regulations (capital to be disregarded)—

- (a) for paragraphs 1 to 4 there shall be substituted the following paragraphs—

“1. The dwelling including any garage, garden and outbuildings normally occupied by the claimant as his home, together with any agricultural land adjoining that dwelling and any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately, but, notwithstanding regulation 19 (calculation of income and capital of members of claimant’s family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

2. Any premises or land acquired for occupation by the claimant as his home which he intends to occupy within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the claimant to obtain possession and commence occupation of the premises or land.

3. Any sum directly attributable to the proceeds of sale of any premises which formerly comprised the dwelling occupied as the home and which is to be used for the purchase of other premises or land intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the claimant to complete the purchase.

4. Any premises owned by the claimant occupied in whole or in part as the home by a partner or relative of any member of the family where that person is either aged 60 or over or incapacitated.”.

- (b) after paragraph 22 there shall be added the following paragraph—

“23. Any payment made under the Macfarlane Trust and any sum derived from such a payment.”.

Sealed with the Official Seal of the Department of Health and Social Services on 31st March 1988.

(L.S.)

A. N. Burns

Assistant Secretary

The Department of the Environment hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of the Environment on 31st March 1988.

(L.S.)

W. N. Campbell

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the Housing Benefit (General) Regulations (Northern Ireland) 1987 to provide for the disregard, in the calculation of income and capital, of charitable payments made to haemophiliacs under the Macfarlane Trust and exempt a person from the requirement to furnish any information relating to such payments (regulations 2 to 5, 7, 9(a) and (c) and 10(b)). They make provision for notifications or determinations made on claims before 30th June 1988 to be in a shortened form (regulation 8), make certain clarificatory amendments (regulations 2(b), 6 and 10(a)) and provide for a disregard from income of expenses incurred in letting land (regulation 9(b)).

The regulations are made before the expiry of 12 months from the commencement of the provisions under which they are made: they are accordingly exempt, by virtue of Article 62(5) of the Social Security (Northern Ireland) Order 1986, from reference to the Social Security Advisory Committee.