

1992 No. 85

HOUSING; RATES; SOCIAL SECURITY

The Income-Related Benefits (Amendment) Regulations
(Northern Ireland) 1992

Made 5th March 1992

Coming into operation—

regulation 1	1st April 1992
regulation 2	
insofar as it relates to any case referred to in regulation 1(2)	1st April 1992
insofar as it relates to any other case	6th April 1992
regulation 3	6th April 1992

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(1)(a) and (c), 22(6)(b) and 23(1) 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(b) so far as relates to matters with regard to which such consent is required and after agreement by the Social Security Advisory Committee that proposals to make these regulations should not be referred to it(c), hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Income-Related Benefits (Amendment) Regulations (Northern Ireland) 1992 and shall come into operation as follows—

- (a) regulation 1 on 1st April 1992;
- (b) regulation 2 in any case to which paragraph (2) applies on 1st April 1992 immediately after the coming into operation of Article 16(b) and (c) of the Up-rating Order, and in any other case on 6th April 1992;
- (c) regulation 3 in relation to a particular claimant, at the beginning of the first benefit week to commence for that claimant on or after 6th April 1992 immediately after the coming into operation of Article 13(6) and (7) of the Up-rating Order.

(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) See Article 81(5) of the Social Security (Northern Ireland) Order 1986

(c) See Article 62(1)(b) of the Social Security (Northern Ireland) Order 1986

(2) This paragraph applies in any case where—

- (a) rent is payable at intervals of one month or any other interval which is not a week or a multiple thereof; or
- (b) payments by way of rates are not made together with payments of rent at weekly intervals or multiples thereof.

(3) In paragraph (1)(c) the expressions “benefit week” and “claimant” have the same meaning as in the Income Support Regulations.

(4) In these regulations—

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations (Northern Ireland) 1987(a);

“the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(b);

“the Up-rating Order” means the Social Security Benefits Up-rating Order (Northern Ireland) 1992(c).

Amendment of regulation 63 of the Housing Benefit Regulations

2. In regulation 63 of the Housing Benefit Regulations (non-dependant deductions)—

(a) in paragraph (1)—

(i) in sub-paragraph (a)(i) for “£13.50” there shall be substituted “£18.00”,

(ii) in sub-paragraph (b)(i) for “£5.70” there shall be substituted “£4.00”;

(b) for paragraph (2) there shall be substituted the following paragraph—

“(2) In the case of a non-dependant aged 18 or over to whom paragraph (1)(a)(i) applies because he is in remunerative work, where it is shown to the appropriate authority that his normal weekly gross income is—

(a) less than £65.00, the deduction to be made under this regulation shall be the deduction specified in paragraph (1)(b)(i);

(b) not less than £65.00 but less than £100.00, the deduction to be made under this regulation shall be £8.00;

(c) not less than £100.00 but less than £130.00, the deduction to be made under this regulation shall be £12.00.”;

(c) in paragraph (6) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) receiving in respect of himself either—

(i) attendance allowance, or

(ii) the care component of the disability living allowance.”;

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- (a) S.R. 1987 No. 461; the relevant amending rules are S.R. 1989 No. 125, S.R. 1990 Nos. 136 and 345 and S.R. 1991 Nos. 47 and 77
 - (b) S.R. 1987 No. 459; the relevant amending rules are S.R. 1989 No. 139, S.R. 1990 Nos. 131 and 346 and S.R. 1991 Nos. 77 and 474
 - (c) S.R. 1992 No. 18

(d) in paragraph (7)—

- (i) at the end of sub-paragraph (b) “or” shall be omitted,
- (ii) in sub-paragraph (c) for “Part VII (students). or” there shall be substituted “Part VII (students);”,
- (iii) in sub-paragraph (d) for “remunerative work.” there shall be substituted “remunerative work; or”,
- (iv) after sub-paragraph (d) there shall be added the following sub-paragraph—

“(e) he is not residing with the claimant because he has been a patient for a period in excess of 6 weeks, or a prisoner, and for these purposes—

- (i) “patient” has the meaning given in paragraph (2) of regulation 18 (patients),
- (ii) the period of 6 weeks shall be calculated by reference to paragraph (3) of that regulation as if that paragraph applied in his case, and
- (iii) “prisoner” means a person who is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court other than a person whose detention is under the Mental Health (Northern Ireland) Order 1986(a).”;

(e) after paragraph (8) there shall be added the following paragraph—

“(9) In the case of a non-dependant to whom paragraph (2) applies because he is in remunerative work, there shall be disregarded from his weekly gross income any attendance allowance or disability living allowance received by him.”.

Amendment of Schedule 3 to the Income Support Regulations

3. In Schedule 3 to the Income Support Regulations (housing costs) in paragraph 11 (non-dependant deductions)—

(a) in sub-paragraph (1)—

- (i) in head (a) for “£13·50” there shall be substituted “£18·00”,
- (ii) in head (b) for “£5·70” there shall be substituted “£4·00”;

(b) in sub-paragraph (2) for the words from “is less than £62·15” to the end there shall be substituted the following—

“is—

- (a) less than £65·00, the deduction to be made under this paragraph shall be the deduction specified in sub-paragraph (1)(b);
- (b) not less than £65·00 but less than £100·00, the deduction to be made under this paragraph shall be £8·00;
- (c) not less than £100·00 but less than £130·00, the deduction to be made under this paragraph shall be £12·00.”;

- (c) in sub-paragraph (6) for head (b) there shall be substituted the following head—
- “(b) receiving in respect of himself either—
- (i) attendance allowance, or
 - (ii) the care component of the disability living allowance.”;

(d) in sub-paragraph (7)—

 - (i) in head (e) for “(non-dependant deductions). or” there shall be substituted “(non-dependant deductions);”,
 - (ii) in head (f) for “would apply.” there shall be substituted “would apply; or”,
 - (iii) after head (f) there shall be added the following head—

“(g) if he is not residing with the claimant because he has been a patient for a period in excess of 6 weeks, or a prisoner, and for these purposes—

 - (i) “patient” and “prisoner” respectively have the meanings given in paragraph (3) of regulation 21 (special cases), and
 - (ii) the period of 6 weeks shall be calculated by reference to paragraph (2) of that regulation as if that paragraph applied in his case.”;

(e) after sub-paragraph (7) there shall be added the following sub-paragraph—

“(8) In the case of a non-dependant to whom sub-paragraph (2) applies because he is in remunerative work, there shall be disregarded from his gross weekly income any attendance allowance or disability living allowance received by him.”.

Sealed with the Official Seal of the Department of Health and Social Services on 5th March 1992.

(L.S.)

A. N. Burns

Assistant Secretary

The Department of the Environment hereby consents to regulation 2 of the foregoing Regulations.

Sealed with the Official Seal of the Department of the Environment on 5th March 1992.

(L.S.)

W. N. Campbell

Assistant Secretary

(This note is not part of the Regulations.)

These regulations further amend the Housing Benefit (General) Regulations (Northern Ireland) 1987 and the Income Support (General) Regulations (Northern Ireland) 1987 in respect of the deductions to be made when determining the amount of housing benefit or income support to which a person may be entitled where he has a non-dependant residing with him.

These regulations increase the rates of weekly deduction from 2 (set at £5·70 and £13·50) to 4. The lowest rate, set at £4·00, will apply to those not in remunerative work, or those in remunerative work but with gross weekly incomes of less than £65. For other non-dependants in remunerative work, one of 3 higher rate deductions will apply. These are set at £8, £12 and £18, for those with gross weekly incomes of less than £100, less than £130, and £130 and over, respectively (regulations 2(a) and (b) and 3(a) and (b)).

They provide that no deduction is to be made in respect of a non-dependant where a claimant or his partner is receiving either attendance allowance or the care component of disability living allowance, or where a person who would otherwise be treated as a non-dependant has been a patient for more than 6 weeks, or is in prison (regulations 2(c) and (d) and 3(c) and (d)).

They further provide that income from attendance allowance or disability living allowance shall be disregarded in calculating a non-dependant's gross weekly income (regulations 2(e) and 3(e)).

In so far as these regulations are required, for the purposes of regulation 2, to be referred to the Social Security Advisory Committee under section 10(1) of the Social Security Act 1980 (c. 30), ("the 1980 Act"), after agreement by the Social Security Advisory Committee they have not been so referred by virtue of Article 62(1)(b) of the Social Security (Northern Ireland) Order 1986. Otherwise the 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 10(2) of, and paragraph 21 of Schedule 3 to, the 1980 Act, are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.