

1994 No. 88

HOUSING; RATES

**The Housing Benefit (General) (Amendment No. 3) Regulations
(Northern Ireland) 1994***Made* *11th March 1994**Coming into operation in accordance with regulation 1(1)*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1)(d) and 132(3) and (4)(a) and (b) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and section 61(3) of the Social Security Administration (Northern Ireland) Act 1992(b), and of all other powers enabling it in that behalf, with the consent of the Department of the Environment for Northern Ireland(c) 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 in respect of these regulations should not be referred to it(d), hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Housing Benefit (General) (Amendment No. 3) Regulations (Northern Ireland) 1994 and shall come into operation as follows—

(a) regulation 1 on 1st April 1994;

(b) regulations 2 to 11—

(i) in any case to which paragraph (2) applies, on 1st April 1994;

(ii) in any other case, on 4th April 1994.

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

(a) 1992 c. 7

(b) 1992 c. 8

(c) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8))

(d) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992

(e) S.R. 1987 No. 461; relevant amending regulations are S.R. 1990 Nos. 136 and 297, S.R. 1991 Nos. 47 and 337, S.R. 1992 Nos. 35, 141 and 404 and S.R. 1993 Nos. 145 and 414

(4) The Interpretation Act (Northern Ireland) 1954(a) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendment of regulation 2 of the principal regulations

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

(a) the definition of “boarder” shall be omitted;

(b) after the definition of “person on income support” there shall be inserted the following definition—

“ “personal pension scheme” has the same meaning as in section 167(1) of the Social Security Administration (Northern Ireland) Act 1992(b) 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(c);”.

Amendment of regulation 25 of the principal regulations

3. In regulation 25 of the principal regulations (calculation of weekly income)—

(a) for “For the purposes of regulations 22 to 24 (average weekly income)” there shall be substituted “—(1) For the purposes of regulations 22 and 24 (average weekly earnings of employed earners and average weekly income other than earnings)”;

(b) after paragraph (1) there shall be added the following paragraph—

“(2) For the purposes of regulation 23 (average weekly earnings of self-employed earners) the weekly amount of earnings of a claimant shall be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the quotient by 7.”.

Amendment of regulation 29 of the principal regulations

4. In regulation 29(4) of the principal regulations (calculation of net earnings of employed earners)(d) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Contributions and Benefits Act in respect of those earnings if such contributions were payable, and”.

(a) 1954 c. 33 (N.I.)

(b) 1992 c. 8; section 167(1) was amended by the Pension Schemes (Northern Ireland) Act 1993 (c. 49) section 184 and Schedule 7, para 42.

(c) 1988 c. 1

(d) Regulation 29(4) was amended by regulation 5 of S.R. 1992 No. 404

Amendment of regulation 30 of the principal regulations

5. In regulation 30(1) of the principal regulations (earnings of self-employed earners)(a) at the end there shall be added “unless at the date of claim the allowance has been terminated”.

Amendment of regulation 31 of the principal regulations

6. In regulation 31 of the principal regulations (calculation of net profit of self-employed earners)—

(a) for “one half of any qualifying premium payable” in each place where those words occur there shall be substituted “one half of the amount calculated in accordance with paragraph (11A) in respect of any qualifying premium”;

(b) for paragraph (11) there shall be substituted the following paragraphs—

“(11) In this regulation—

“qualifying premium” means any premium which is payable periodically in respect of a retirement annuity contract or a personal pension scheme and is so payable on or after the date of claim;

“retirement annuity contract” means an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision of a life annuity in old age or the provision of an annuity for a partner or dependant and in respect of which relief from income tax may be given on any premium.

(11A) The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying premium shall be determined—

(a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;

(b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.”.

Amendment of regulation 35 of the principal regulations

7. In regulation 35(7) of the principal regulations (notional income)(b) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Contributions and Benefits Act in respect of those earnings if such contributions were payable, and”.

(a) Regulation 30(1) was amended by regulation 5 of S.R. 1993 No. 145 and regulation 3 of S.R. 1993 No. 414

(b) Regulation 35(7) was amended by regulation 7 of S.R. 1992 No. 404

Amendment of regulation 55 of the principal regulations

8. In regulation 55(2)(b) of the principal regulations (calculation of covenant income where no grant income or no contribution is assessed) at the end there shall be added “and (2A)”(a).

Amendment of regulation 57 of the principal regulations

9. In regulation 57 of the principal regulations (other amounts to be disregarded)—

- (a) for “other than grant income and covenant income” there shall be substituted “other than grant income, covenant income and loans treated as income in accordance with regulation 57A”(b);
- (b) after “sums disregarded under regulation 53(2)” there shall be inserted “or (2A)”.

Amendment of regulation 68 of the principal regulations

10. In regulation 68 of the principal regulations (date on which change of circumstances is to take effect)(c)—

- (a) in paragraph (1) for “paragraphs (2) to (5)” there shall be substituted “paragraphs (2) to (6)”;
- (b) after paragraph (5) there shall be added the following paragraph—

“(6) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the Contributions and Benefits Act, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances shall take effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of these regulations.”;
- (c) paragraph (b) shall only apply in the case of a change of circumstances which affects entitlement to housing benefit, or the amount of housing benefit, where entitlement to housing benefit arose pursuant to a claim for that benefit determined on or after 1st April 1994 or, in a case to which regulation 1(1)(b)(ii) applies, 4th April 1994.

Amendment of Schedule 4 to the principal regulations

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

- (a) for paragraph 22(d) there shall be substituted the following paragraph—

“22. Where the claimant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom

(a) Regulation 53(2A) was inserted by regulation 4(b) of S.R. 1992 No. 141
 (b) Regulation 57A was inserted by regulation 3(9) of S.R. 1990 No. 297
 (c) Regulation 68 was amended by regulation 7 of S.R. 1992 No. 141
 (d) Paragraph 22 was amended by regulation 4 of S.R. 1992 No. 35

paragraph 21 or 45 refers and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) £4 of the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, and
- (b) a further £8·60, where the aggregate of any such payments is inclusive of an amount for heating.”;

(b) for paragraph 45(a) there shall be substituted the following paragraph—

“45.—(1) Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20·00, 100% of such payments, or
- (b) where the aggregate of any such payments exceeds £20·00, £20·00 and 50% of the excess over £20·00.

(2) In this paragraph “board and lodging accommodation” means accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises.”;

(c) after paragraph 54(b) there shall be added the following paragraph—

“55. Where the claimant is in receipt of any benefit under Parts II, III or V of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part IV (increases for dependants) or section 106(a) (unemployability supplement) of that Act where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 11th March 1994.

(L.S.)

W. G. Purdy

Assistant Secretary

The Department of the Environment for Northern Ireland hereby consents to the foregoing Regulations.

(a) Paragraph 45 was added by regulation 12(c) of S.R. 1990 No. 136
(b) Paragraph 54 was added by regulation 12(e) of S.R. 1993 No. 145

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 11th March 1994.

(L.S.)

R. E. Aiken

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Housing Benefit (General) Regulations (Northern Ireland) 1987 in the following respects—

- (a) they provide a definition of “personal pension scheme” and omit the definition of “boarder” (regulation 2);
- (b) they further specify the amount to be deducted in certain circumstances in respect of national insurance contributions when calculating a person’s income (regulations 4 and 7);
- (c) with respect to the calculation of the earnings of self-employed earners, they amend the provisions for calculating the weekly amount of earnings; they amend the definition of earnings in relation to certain allowances paid to assist a person in carrying on his business; and they provide that a proportion of any premium paid in respect of a personal pension scheme shall be disregarded (regulations 3, 5 and 6);
- (d) they further define the amount to be disregarded in calculating a student’s covenant income and a student’s income other than grant income and covenant income (regulations 8 and 9);
- (e) they make further provision as to the date on which a change of circumstances is to take effect, where the change is in respect of a person’s income (regulation 10);
- (f) with respect to the calculation of income other than earnings they provide a disregard where an increase of a specified benefit is payable in respect of a dependant who is not a member of the claimant’s family, and further define the amount to be disregarded in respect of payments made to a claimant where other persons occupy the claimant’s home (regulation 11).