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STATUTORY RULES OF NORTHERN IRELAND

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**2004 No. 197**

**The Social Security (Habitual Residence  
Amendment) Regulations (Northern Ireland) 2004**

**Citation, commencement and interpretation**

1.—(1) These Regulations shall be cited as the Social Security (Habitual Residence Amendment) Regulations (Northern Ireland) 2004 and shall come into operation on 1st May 2004.

(2) In these Regulations –

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations (Northern Ireland) 1987(1);

“the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(2);

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(3);

“the State Pension Credit Regulations” means the State Pension Credit Regulations (Northern Ireland) 2003(4).

(3) The Interpretation Act (Northern Ireland) 1954(5) shall apply to these Regulations as it applies to an Act of the Assembly.

**Amendment of the Housing Benefit Regulations**

2. After regulation 7A of the Housing Benefit Regulations(6) (persons from abroad)

(a) in paragraph (4)(e)(i) after “No. 73/148/EEC” there shall be added “or a person who is an accession State worker requiring registration who is treated as a worker for the purpose of the definition of “qualified person” in regulation 5(1) of the Immigration (European Economic Area) Regulations 2000(7) pursuant to regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004(8)”;

(b) after paragraph (4) there shall be inserted the following paragraph –

“(4B) In this regulation, for the purposes of the definition of a person from abroad no person shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland if he does not have a right to reside in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.”.

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(1) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1994 Nos. 80 and 266, S.R. 1996 Nos. 405 and 448, S.R. 1998 No. 81 and S.R. 2000 Nos. 71 and 125

(2) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1994 No. 266, S.R. 1996 Nos. 375 and 405 and S.R. 2000 No. 71

(3) S.R. 1996 No. 198 ; relevant amending Regulations are S.R. 1996 Nos. 356 and 503 and S.R. 2000 No. 71

(4) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2003 No. 421

(5) 1954 c. 33 (N.I.)

(6) Regulation 7A was inserted by regulation 2(1) of S.R. 1994 No. 80 and paragraph (4) was amended by regulation 3(a) of S.R. 1994 No. 266, regulation 4(3)(b) of S.R. 1996 No. 405, regulation 2(b) of S.R. 1996 No. 448, regulation 11(3) and (4)(a) of S.R. 1998 No. 81, regulation 6(3)(a) of S.R. 2000 No. 71 and regulation 4 of S.R. 2000 No. 125

(7) S.I.2000/2326

(8) S.I. 2004/1219

### **Amendment of the Income Support Regulations**

3. In regulation 21 of the Income Support Regulations (special cases) –
- (a) in paragraph (3)(9) for “Subject to paragraph (3D)” there shall be substituted “Subject to paragraphs (3D) and (3E)”;
  - (b) in paragraph (3) in the definition of “person from abroad”(10) in sub-paragraph (a) after “No. 73/148/EEC” there shall be added “or a person who is an accession State worker requiring registration who is treated as a worker for the purpose of the definition of “qualified person” in regulation 5(1) of the Immigration (European Economic Area) Regulations 2000 pursuant to regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004”;
  - (c) after paragraph (3D)(11) there shall be inserted the following paragraph –
 

“(3E) In paragraph (3), for the purposes of the definition of a person from abroad no person shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland if he does not have a right to reside in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.”.

### **Amendment of the Jobseeker’s Allowance Regulations**

4. In regulation 85 of the Jobseeker’s Allowance Regulations (special cases) –
- (a) in paragraph (4)(12) for “Subject to paragraph (4A)” there shall be substituted “Subject to paragraphs (4A) and (4B)”;
  - (b) in paragraph (4) in the definition of “person from abroad”(13) in sub-paragraph (a) after “No. 73/148/EEC” there shall be added “or a person who is an accession State worker requiring registration who is treated as a worker for the purpose of the definition of “qualified person” in regulation 5(1) of the Immigration (European Economic Area) Regulations 2000 pursuant to regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004”;
  - (c) after paragraph (4A)(14) there shall be inserted the following paragraph –
 

“(4B) In paragraph (4), for the purposes of the definition of a person from abroad no person shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland if he does not have a right to reside in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.”.

### **Amendment of the State Pension Credit Regulations**

5. In regulation 2 of the State Pension Credit Regulations(15) (persons not in Northern Ireland) –
- (a) at the beginning there shall be inserted “–(1) Subject to paragraph (2)”;
  - (b) in renumbered paragraph (1)(a) after “No. 73/148/EEC” add “or a person who is an accession State worker requiring registration who is treated as a worker for the purpose of the definition of “qualified person” in regulation 5(1) of the Immigration (European

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(9) Paragraph (3) was amended by regulation 3(2) of S.R. 1996 No. 375

(10) Definition of “person from abroad” was amended by regulation 2(1) of S.R. 1994 No. 266, regulation 5(6)(b) of S.R. 1996 No. 405 and regulation 5(4)(b) of S.R. 2000 No. 71

(11) Paragraph (3D) was inserted by regulation 3(3) of S.R. 1996 No. 375

(12) Paragraph (4) was amended by regulation 2(9)(a) of S.R. 1996 No. 503

(13) Definition of “person from abroad” was amended by regulation 8(1)(b) of S.R. 1996 No. 356 and regulation 10(3)(b) of S.R. 2000 No. 71

(14) Paragraph (4A) was inserted by regulation 2(9)(b) of S.R. 1996 No. 503

(15) Regulation 2 was amended by regulation 2(3) of S.R. 2003 No. 421

Economic Area) Regulations 2000 pursuant to regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004”;

(c) after renumbered paragraph (1) there shall be added the following paragraph –

“(2) For the purposes of treating a person as not in Northern Ireland in paragraph (1), no person shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland if he does not have a right to reside in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.”.

### **Transitional arrangements and savings**

6.—(1) Paragraph (2) shall apply where a person –

- (a) is entitled to a specified benefit in respect of a period which includes 30th April 2004;
- (b) claims a specified benefit on or after 1st May 2004 and it is subsequently determined that he is entitled to that benefit in respect of a period which includes 30th April 2004;
- (c) claims a specified benefit on or after 1st May 2004 and it is subsequently determined that he is entitled to such a benefit in respect of a period which is continuous with a period of entitlement to the same or another specified benefit which includes 30th April 2004;
- (d) claims jobseeker’s allowance on or after 1st May 2004 and it is subsequently determined that he is entitled to jobseeker’s allowance in respect of a period of entitlement to that benefit which is linked to a previous period of entitlement which includes 30th April 2004 by virtue of regulations made under paragraph 3 of Schedule 1 to the Jobseekers (Northern Ireland) Order 1995.

(2) Where this paragraph applies –

- (a) regulation 7A of the Housing Benefit Regulations shall continue to have effect as if regulation 2 had not been made;
- (b) regulation 21 of the Income Support Regulations shall continue to have effect as if regulation 3 had not been made;
- (c) regulation 85 of the Jobseeker’s Allowance Regulations shall continue to have effect as if regulation 4 had not been made, and
- (d) regulation 2 of the State Pension Credit Regulations shall continue to have effect as if regulation 5 had not been made.

(3) The provisions saved by paragraph (2) shall continue to have effect until the date on which entitlement to a specified benefit for the purposes of paragraph (1) ceases, and if there is more than one such specified benefit, until the last date on which such entitlement ceases.

(4) In this regulation “specified benefit” means income support, housing benefit, jobseeker’s allowance and state pension credit.

Sealed with the Official Seal of the Department for Social Development on 29th April 2004.

L.S.

*John Deery*  
Senior Officer of the  
Department for Social Development

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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The Department of Finance and Personnel hereby consents to regulations 2 and 6 of the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 29th April 2004.

L.S.

*Ciaran Doran*  
A senior officer of the  
Department of Finance and Personnel