

1990 No. 345

HOUSING; RATES

**The Housing Benefit (General) (Amendment No. 3)
Regulations (Northern Ireland) 1990**

Made 25th September 1990

Coming into operation 1st October 1990

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 21(1)(c), 22(6)(b) and 23(1), (8), (9)(a) and (b) of the Social Security (Northern Ireland) Order 1986(a) and of all other powers enabling it in that behalf, 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 Housing Benefit (General) (Amendment No. 3) Regulations (Northern Ireland) 1990 and shall come into operation on 1st October 1990.

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

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation) after the definition of “close relative” there shall be inserted the following definition—

“ “community charge” means a community charge under Part II of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(e) or Part I of the Local Government Finance Act 1988(f);” .

Amendment of regulation 3 of the principal regulations

3. In regulation 3(2) of the principal regulations (definition of non-dependant) for sub-paragraph (e) there shall be substituted the following sub-paragraph—

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- (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
- (d) S.R. 1987 No. 461; the relevant amending regulations are S.R. 1988 Nos. 117 and 424, S.R. 1989 No. 125 and S.R. 1990 Nos. 33 and 72
- (e) 1987 c. 47
- (f) 1988 c. 41

“(e) subject to paragraph (3)—

- (i) any person who is liable to make payments on a commercial basis to the claimant or the claimant’s partner in respect of the occupation of the dwelling,
- (ii) any person to whom or to whose partner the claimant or the claimant’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 claimant or the claimant’s partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling;”.

Amendment of regulation 35 of the principal regulations

4. In regulation 35(3)(a) of the principal regulations (notional income) after “eligible rent or rates or both,” there shall be inserted “or community charge”.

Amendment of regulation 43 of the principal regulations

5. In regulation 43 of the principal regulations (notional capital)—

- (a) in paragraph (1) at the end there shall be added “except to the extent that that capital is reduced in accordance with regulation 43A (diminishing notional capital rule)”;
- (b) in paragraph (3)(a) after “eligible rent or rates or both,” there shall be inserted “or community charge”.

Insertion of regulation 43A in the principal regulations

6. After regulation 43 of the principal regulations (notional capital) there shall be inserted the following regulation—

“Diminishing notional capital rule

43A.—(1) Where a claimant is treated as possessing capital under regulation 43(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a week that is subsequent to—
 - (i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied, or
 - (ii) a week which follows that relevant week and which satisfies those conditions,
 shall be reduced by the amount determined under paragraph (3);
- (b) in the case of a week in respect of which paragraph (1)(a) does not apply but where—
 - (i) that week is a week subsequent to the relevant week, and
 - (ii) that relevant week is a week in which the condition in paragraph (4) is satisfied,
 shall be reduced by the amount determined under paragraph (4).

(2) This paragraph applies to a benefit week where the claimant satisfies the conditions that—

(a) he is in receipt of housing benefit; and

(b) but for regulation 43(1), he would have received an additional amount of housing benefit in that benefit week.

(3) In a case to which paragraph (2) applies, the amount of the reduction for the purposes of paragraph (1)(a) shall be equal to the additional amount to which paragraph (2)(b) refers.

(4) Subject to paragraph (5), for the purposes of paragraph (1)(b) the condition is that the claimant would have been entitled to housing benefit in the relevant week, but for regulation 43(1), and in such a case the amount of the reduction shall be the amount of housing benefit to which the claimant would have been entitled in the relevant week but for regulation 43(1).

(5) The amount determined under paragraph (4) shall be re-determined under that paragraph if the claimant makes a further claim for housing benefit and the conditions in paragraph (6) are satisfied, and in such a case—

(a) paragraph (4) shall apply as if for “relevant week” in both places where those words appear there were substituted “relevant subsequent week”; and

(b) subject to paragraph (7), the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.

(6) The conditions are that—

(a) a further claim is made 26 or more weeks after—

(i) the date on which the claimant made a claim for housing benefit in respect of which he was first treated as possessing the capital in question under regulation 43(1),

(ii) in a case where there has been at least one re-determination in accordance with paragraph (5), the date on which he last made a claim for housing benefit which resulted in the weekly amount being re-determined, or

(iii) the date on which he last ceased to be entitled to housing benefit,

whichever last occurred; and

(b) the claimant would have been entitled to housing benefit but for regulation 43(1).

(7) The amount as re-determined pursuant to paragraph (5) shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.

(8) For the purposes of this regulation—

“relevant week” means the benefit week in which the capital in question of which the claimant has deprived himself within the meaning of regulation 43(1)—

(a) was first taken into account for the purpose of determining his entitlement to housing benefit; or

(b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to housing benefit on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, housing benefit,

and where more than one benefit week is identified by reference to paragraphs (a) and (b) the later or latest such benefit week;

“relevant subsequent week” means the benefit week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.”.

Amendment of regulation 61 of the principal regulations

7. In regulation 61 of the principal regulations (maximum housing benefit) “or boarders” shall be omitted.

Amendment of regulation 63 of the principal regulations

8. In regulation 63(7) of the principal regulations (non-dependant deductions) after sub-paragraph (c) there shall be added the following—

“or

(d) he is a full-time student and during a recognised summer vacation appropriate to his course he is not in remunerative work.”.

Amendment of Schedule 2 to the principal regulations

9. In Schedule 2 to the principal regulations (applicable amounts)—

(a) in paragraph 4 for “8 to 14” there shall be substituted “8 to 14ZA”;

(b) in paragraph 6(2) for “The disabled child premium to which paragraph 14 applies” there shall be substituted “The disabled child premium and the carer premium to which paragraphs 14 and 14ZA respectively apply”;

(c) in paragraph 7—

(i) at the beginning there shall be inserted “(1) Subject to sub-paragraph (2),”;

(ii) after sub-paragraph (1) there shall be added the following sub-paragraph—

“(2) For the purposes of the carer premium under paragraph 14ZA, a person shall be treated as being in receipt of an invalid care allowance by virtue of sub-paragraph (1)(a) only if, and for so long as, the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance.”;

(d) after paragraph 14 there shall be inserted the following paragraph—

“*Carer premium*

14ZA.—(1) The condition for the carer premium is that the claimant or his partner is, or both of them are, in receipt of an invalid care allowance under section 37 of the principal Act(a).

(a) 1975 c. 15; section 37 was amended by Article 38(1) of, and Schedule 10 to, the Social Security (Northern Ireland) Order 1986

(2) If a claimant or his partner, or both of them, would be in receipt of an invalid care allowance but for the provisions of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(a), where—

- (a) the claim for that allowance was made on or after 1st October 1990; and
- (b) the person or persons in respect of whose care the allowance has been claimed remains or remain in receipt of attendance allowance,

he or his partner, or both of them, as the case may be, shall be treated for the purposes of sub-paragraph (1) as being in receipt of an invalid care allowance.”;

(e) in paragraph 15 at the end there shall be added the following sub-paragraph—

“(8) Carer Premium.

(8) £10 in respect of each person who satisfies the condition specified in paragraph 14ZA.”.

Amendment of Schedule 3 to the principal regulations

10. In Schedule 3 to the principal regulations (sums to be disregarded in the calculation of earnings) for paragraph 4 there shall be substituted the following paragraph—

“4. If an amount by way of a lone parent premium under Schedule 2 (applicable amounts) is or, but for any pensioner premium, higher pensioner premium or disability premium being applicable to him, would be included in the calculation of the claimant’s applicable amount, £25.”.

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 15 there shall be substituted the following paragraph—

“15.—(1) Except where sub-paragraph (2) applies and subject to sub-paragraph (3) and paragraphs 35 and 37, £10 of any charitable payment or of any voluntary payment made or due to be made at regular intervals.

(2) Subject to sub-paragraph (3) and paragraph 37, any charitable payment or voluntary payment made or due to be made at regular intervals which is intended and used for an item other than the food, ordinary clothing or footwear, household fuel, eligible rent or rates or both, or community charge of a single claimant or, as the case may be, of the claimant or any other member of his family.

(3) Sub-paragraphs (1) and (2) shall not apply to a payment which is made by a person for the maintenance of any member of his family or of his former partner or of his children.

(a) S.R. 1979 No. 242; the relevant amending regulations are S.R. 1980 No. 451, S.R. 1983 No. 36 and S.R. 1984 No. 317

(4) For the purposes of sub-paragraph (1), where a number of charitable or voluntary payments fall to be taken into account in any one week they shall be treated as though they were one such payment.

(5) For the purposes of sub-paragraph (2), the expression “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.”;

(b) after paragraph 46 there shall be added the following paragraphs—

“47.—(1) Any payment or repayment made under regulation 3, 5 or 8 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989(a) (entitlement to full remission and payment, persons entitled to remission in part or payment in part, or repayment).

(2) Any payment or repayment made by the Department which is analogous to a payment or repayment mentioned in sub-paragraph (1).

48. Any payment made under regulation 8, 9, 10 or 12 of the Welfare Foods Regulations (Northern Ireland) 1988(b) (failure to receive milk tokens, inability to purchase dried milk at a reduced price, inability to obtain free vitamins or absence of beneficiary for less than a week).

49. Any payment made under a scheme established by the Northern Ireland Office to assist relatives and other persons to visit persons in custody.”.

Amendment of Schedule 5 to the principal regulations

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

(a) in paragraph 4(a) for “any member of” there shall be substituted “a single claimant or any member of”;

(b) in paragraph 7—

(i) at the beginning there shall be inserted “(1)”,

(ii) after sub-paragraph (1) there shall be added the following sub-paragraph—

“(2) The assets of any business owned in whole or in part by the claimant where—

(a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but

(b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business,

(a) S.R. 1989 No. 348; as modified by S.R. 1990 No. 164

(b) S.R. 1988 No. 137; the relevant amending regulations are S.R. 1990 No. 92

for a period of 26 weeks from the date on which the claim for housing benefit is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.”;

- (c) for paragraph 13 there shall be substituted the following paragraph—
 “13. Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant, the value of the trust fund and the value of the right to receive any payment under that trust.”;

- (d) after paragraph 37 there shall be added the following paragraphs—
 “38. Any arrears of special war widows payment which is disregarded under paragraph 46 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings), but only for a period of 52 weeks from the date of the receipt of the arrears.

39.—(1) Any payment or repayment made under regulation 3, 5 or 8 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989 (entitlement to full remission and payment, persons entitled to remission in part or payment in part, or repayment), but only for a period of 52 weeks from the date of the receipt of the payment or repayment.

(2) Any payment or repayment made by the Department which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of the receipt of the payment or repayment.

40. Any payment made under regulation 8, 9, 10 or 12 of the Welfare Foods Regulations (Northern Ireland) 1988 (failure to receive milk tokens, inability to purchase dried milk at a reduced price, inability to obtain free vitamins or absence of beneficiary for less than a week), but only for a period of 52 weeks from the date of the receipt of the payment.

41. Any payment made under a scheme established by the Northern Ireland Office to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.”.

Revocations

13. Regulation 6 of the Housing Benefit (General) (Amendment) Regulations (Northern Ireland) 1989(a) is hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services on 25th September 1990.

(L.S.)

A. N. Burns

Assistant Secretary

(a) S.R. 1989 No. 125; to which there are amendments not relevant to these regulations

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Housing

No. 345

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

Sealed with the Official Seal of the Department of the Environment on
25th September, 1990.

(L.S.)

F. R. Rodgers

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 insert a definition of “community charge” (regulation 2);
- (b) they provide that a person residing with a claimant shall not be a non-dependant where payments are made on a commercial basis to or by a member of the claimant’s household in respect of the occupation of the dwelling (regulation 3);
- (c) they provide that payments to a third party in respect of a claimant for housing benefit or a member of his family, where used for paying a community charge of that claimant or family are to be treated as part of the claimant’s income or capital (regulations 4 and 5(b));
- (d) they provide for the reduction of notional capital (regulations 5(a) and 6);
- (e) they make a minor amendment in relation to boarders (regulation 7);
- (f) they provide that non-dependant deductions from a claimant’s housing benefit shall not be made in respect of a full-time student who is not in remunerative work during his summer vacation (regulation 8);
- (g) they add a new premium, the carer premium, to the premiums which may form part of a housing benefit claimant’s applicable amount where the claimant or his partner is or, in certain cases, would be in receipt of an invalid care allowance (regulation 9);
- (h) they increase the amount of income to be disregarded from a lone parent’s earnings (regulation 10);
- (i) they provide for the disregard of certain income and capital, including travelling expenses and certain other payments made under the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)), payments in place of the supply of milk, dried milk or vitamins and payments in connection with prison visits and, as regards capital only, extend the provisions under which assets of a business, the value of certain premises occupied by relatives of single claimants, funds held on trust and arrears of certain war widows payments may be disregarded (regulations 11 and 12).

They also contain a consequential revocation (regulation 13).