

1993 No. 218

HOUSING; RATES; SOCIAL SECURITY**The Income-Related Benefits (Amendment No. 2)
Regulations (Northern Ireland) 1993**

Made 30th April 1993

Coming into operation 25th May 1993

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1)(a) and (d) and 131(1) 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, 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 No. 2) Regulations (Northern Ireland) 1993 and shall come into operation on 25th May 1993.

(2) In these regulations—

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

“the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(e).

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

Amendment of the Housing Benefit Regulations

2.—(1) The Housing Benefit Regulations shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 79 (review of determinations)—

(a) in paragraph (1) for “paragraph (1A)” there shall be substituted “paragraphs (1A) and (1B)”;

(a) 1992 c. 7

(b) 1992 c. 8

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

(d) S.R. 1987 No. 461; relevant amending regulations are S.R. 1990 No. 136, S.R. 1991 No. 176 and S.R. 1992 Nos. 6 and 141

(e) S.R. 1987 No. 459; relevant amending regulations are S.R. 1989 No. 395 and S.R. 1992 No. 6

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

- (b) after paragraph (1A) there shall be inserted the following paragraph—
- “(1B) In paragraph (1)(c) “a mistake as to the law” shall not include any question as to whether, in making any provision in a regulation or order, the Department went beyond the powers exercisable by it.”;
- (c) in paragraph (2) after “Notwithstanding paragraph (1),” there shall be inserted “except in the case of a question to which paragraph (1B) refers,”.
- (3) In Schedule 2 (applicable amounts) in paragraph 13 (severe disability premium)—
- (a) in sub-paragraph (2)(a) for “or lone parent” there shall be substituted “, a lone parent or a claimant who is treated as having no partner in consequence of sub-paragraph (2A)”;
- (b) after sub-paragraph (2) there shall be inserted the following sub-paragraph—
- “(2A) Where a claimant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 12(1)(a)(v) and (2), that partner shall be treated for the purposes of sub-paragraph (2) as if he were not a partner of the claimant.”;
- (c) in sub-paragraph (3)—
- (i) “either” shall be omitted;
- (ii) after head (a) “or” shall be omitted;
- (iii) in head (b) for “boarder.” there shall be substituted “boarder; or”;
- (iv) after head (b) there shall be added the following head—
- “(c) a person who is blind or is treated as blind within the meaning of paragraph 12(1)(a)(v) and (2).”.

Amendment of the Income Support Regulations

3.—(1) The Income Support Regulations shall be amended in accordance with paragraph (2).

(2) In Schedule 2 (applicable amounts) in paragraph 13 (severe disability premium)—

- (a) in sub-paragraph (2)(a) for “or a lone parent” there shall be substituted “, a lone parent or a claimant who is treated as having no partner in consequence of sub-paragraph (2A)”;
- (b) after sub-paragraph (2) there shall be inserted the following sub-paragraph—
- “(2A) Where a claimant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 12(1)(a)(iii) and (2), that partner shall be treated for the purposes of sub-paragraph (2) as if he were not a partner of the claimant.”;

(c) in sub-paragraph (3)—

- (i) after head (b) “or” shall be omitted;
- (ii) in head (c) for “disabled person.” there shall be substituted “disabled person; or”;
- (iii) after head (c) there shall be added the following head—
 - “(d) a person who is blind or is treated as blind within the meaning of paragraph 12(1)(a)(iii) and (2).”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 30th April 1993.

(L.S.)

W. G. Purdy

Assistant Secretary

EXPLANATORY NOTE

(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.

They provide that in reviewing determinations relating to housing benefit, the question of whether the Department of Health and Social Services went beyond the powers exercisable by it in making any provision in a regulation or order is not a question arising in connection with the appropriate authority's or Review Board's power to review on the ground of a mistake of law (regulation 2(2)).

They provide that in calculating the applicable amount of a claimant for housing benefit and income support, where the claimant is living with a person who is blind or is treated as blind, the presence of that person shall not prevent the claimant from satisfying the qualifying condition for a severe disability premium (regulations 2(3) and 3(2)).

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 149(2) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8), (“the 1992 Act”), after agreement by the Social Security Advisory Committee they have not been so referred by virtue of section 150(1)(b) of that Act. Otherwise these 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 149(3) of, and paragraph 10 of Schedule 5 to, the 1992 Act, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.