

## 1994 No. 80

## HOUSING; RATES

**The Housing Benefit (General) (Amendment)  
Regulations (Northern Ireland) 1994**

*Made*

*7th 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 133(2)(i) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and of all other powers enabling it in that behalf, with the consent of the Department of the Environment for Northern Ireland(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) Regulations (Northern Ireland) 1994 and shall come into operation as follows—

(a) regulation 1 on 1st April 1994;

(b) regulation 2—

(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(d).

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

(a) 1992 c. 7

(b) 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))

(c) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

(d) S.R. 1987 No. 461 to which there are amendments not relevant to these regulations

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

*Amendment of regulation 7 of the principal regulations*

2.—(1) After regulation 7 of the principal regulations (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) there shall be inserted the following regulation—

*“Persons from abroad*

7A.—(1) A person from abroad who is liable to make payments in respect of a dwelling shall be treated as if he were not so liable.

(2) In paragraph (1) a “person from abroad” means a person, other than a person to whom paragraph (3) or (5) applies, who has limited leave (as defined in section 33(1) of the 1971 Act) to enter or remain in the United Kingdom which was given in accordance with any provision in the immigration rules (as defined in that section) relating to—

(a) there being, or to there needing to be, no recourse to public funds,  
or

(b) there being no charge on public funds,  
during that limited leave.

(3) Subject to paragraph (6) this paragraph applies to a person who—

(a) is a national of a European Economic Area State, a state which is a signatory to the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953)(a), a state which is a signatory to the Council of Europe Social Charter (signed in Turin on 18th October 1961)(b), the Channel Islands or the Isle of Man, or

(b) having, during any one period of limited leave (including any such period as extended), supported himself without recourse to public funds other than any such recourse by reason of the previous application of this sub-paragraph, is temporarily without funds during that period of leave because remittances to him from abroad have been disrupted, provided that there is a reasonable expectation that his supply of funds will be resumed.

(4) In paragraph (1) “person from abroad” also means any person other than a person to whom paragraph (5) applies who—

(a) having a limited leave (as defined in section 33(1) of the 1971 Act) to enter or remain in the United Kingdom, has remained without further leave under that Act beyond the time limited by the leave;

(b) is the subject of a deportation order being an order under section 5(1) of the 1971 Act (deportation) requiring him to leave and prohibiting him from entering the United Kingdom except where his removal from the United Kingdom has been deferred in writing by the Secretary of State, or

(c) is adjudged by the immigration authorities to be an illegal entrant (as defined in section 33(1) of the 1971 Act) who has not subsequently been given leave under that Act to enter or remain in

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(a) Cmd. 9512

(b) Cmd. 2643

the United Kingdom except a person who has been allowed to remain in the United Kingdom with the consent in writing of the Secretary of State.

(5) This paragraph applies to a person who—

(a) is an asylum seeker, and for this purpose a person—

- (i) becomes an asylum seeker when he has submitted a claim for asylum to the Secretary of State that it would be contrary to the United Kingdom's obligations under the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, and the protocol to that convention, for him to be removed from, or required to leave, the United Kingdom and that claim is recorded by the Secretary of State as having been made, and
- (ii) ceases to be an asylum seeker when his claim is recorded by the Secretary of State as having been finally determined or abandoned;

(b) is awaiting the outcome of an appeal under Part II of the 1971 Act (including any period for which the appeal is treated as pending under section 33(4) of that Act);

(c) has no or no further right of appeal under the 1971 Act but has been allowed to remain in the United Kingdom while an application to remain is, or representations on his behalf are, being considered by the Secretary of State;

(d) except where he is a person to whom paragraph (4)(b) applies, has been granted permission to remain in the United Kingdom pending the removal from the United Kingdom of a person who is the subject of a deportation order but whose deportation has been deferred in writing by the Secretary of State;

(e) is subject to a direction for his removal from the United Kingdom but whose removal has been deferred in writing by the Secretary of State, or

(f) is in receipt of income support.

(6) Paragraph (3)(b) shall not apply to a person who has been temporarily without funds for any period, or the aggregate of any periods, exceeding 42 days during any one period of limited leave (including any such period as extended).

(7) In this regulation—

“the 1971 Act” means the Immigration Act 1971(a);

a “European Economic Area State” means a Member State or Norway, Sweden, Iceland, Austria or Finland.”.

(2) Regulation 49 of the principal regulations (circumstances in which certain students are to be treated as not liable to make payments in respect of a dwelling) is hereby revoked.

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(a) 1971 c. 77, as amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4

(3) In the case of a person who was entitled to housing benefit in respect of 31st March 1994 or in a case to which regulation 1(1)(b)(ii) applies, 3rd April 1994, the preceding provisions of this regulation shall only apply to him—

- (a) on the day immediately following the day on which the person's benefit period, which includes 31st March 1994 or, as the case may be, 3rd April 1994, ends, and
- (b) on any day thereafter.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 7th March 1994.

(L.S.)

*W. G. Purdy*

Assistant Secretary

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

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 8th March 1994.

(L.S.)

*R. E. Aiken*

Assistant Secretary

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#### EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations further amend the Housing Benefit (General) Regulations (Northern Ireland) 1987 ("the principal regulations").

Regulation 2(1) and (3) removes entitlement to housing benefit from certain persons from abroad, in particular those persons (other than asylum seekers) who enter the United Kingdom on the basis that they will have no recourse to public funds.

Regulation 2(2) revokes regulation 49 of the principal regulations.