

2001 No. 79

HOUSING

**The Housing Benefit (General) (Amendment) Regulations
(Northern Ireland) 2001**

Made 23rd February 2001

Coming into operation 21st May 2001

The Department for Social Development, in exercise of the powers conferred on it by sections 122(1)(d), 129(2) to (4), 133(2)(i) and 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and sections 73(1) to (4) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(b) and now vested in it(c), and of all other powers enabling it in that behalf, 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) 2001 and shall come into operation on 21st May 2001.

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

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

Amendment of regulation 7 of the principal Regulations

2. In regulation 7(1)(h) of the principal Regulations(f) (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling), for “except” there shall be substituted “and less than five years have elapsed since he or, as the case may be, his partner ceased to own the property, save that this sub-paragraph shall not apply”.

(a) 1992 c. 7
(b) 1992 c. 8; section 73(1) was amended by paragraph 2 of Schedule 1 and by Schedule 2 to the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11))
(c) See Article 8(b) of, and Part II of Schedule 6 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. 1999 No. 481)
(d) S.R. 1987 No. 461; relevant amending Rules are S.R. 1988 No. 314, S.R. 1990 No. 345, S.R. 1991 Nos. 47 and 337, S.R. 1992 No. 549, S.R. 1993 No. 145, S.R. 1994 No. 137, S.R. 1996 Nos. 111 and 181, S.R. 1997 Nos. 22, 170 and 377, S.R. 1998 No. 455, S.R. 1999 No. 416 and S.R. 2000 Nos. 1, 38 and 265
(e) 1954 c. 33 (N.I.)
(f) Regulation 7(1) was substituted by regulation 3 of S.R. 1998 No. 455

Amendment of regulation 10 of the principal Regulations

3. In regulation 10 of the principal Regulations (rent)—

(a) for paragraph (3)(a) there shall be substituted the following paragraph—

“(3) Subject to paragraphs (4), (5) and (6B)(b), the amount of a person’s eligible rent shall be—

(a) the maximum rent where a maximum rent has been, or falls to be, determined in accordance with regulation 11 (maximum rent), or

(b) except where sub-paragraph (a) applies, the aggregate of such payments specified in paragraph (1) as that person is liable to pay less—

(i) except where he is separately liable for rates, an amount determined in accordance with paragraph (6);

(ii) where payments include service charges which are wholly or partly ineligible, an amount in respect of the ineligible charges determined in accordance with Schedule 1 (ineligible service charges), and

(iii) where he is liable to make payments in respect of any service charges to which paragraph (1)(e) does not apply, but to which paragraph 2(1A)(c) of Schedule 1 (amount of ineligible charges) applies in the particular circumstances, an amount in respect of such charges determined in accordance with paragraph 2(1A) of Schedule 1.”;

(b) paragraph (6A)(d) shall be omitted.

Amendment of regulation 11 of the principal Regulations

4. In regulation 11 of the principal Regulations(e) (maximum rent)—

(a) for paragraph (3A)(f), there shall be substituted the following paragraph—

“(3A) Subject to paragraph (3B)(g), in the case of a young individual—

(a) except where sub-paragraph (b) applies, where the Executive has determined a single room rent, the maximum rent shall not exceed that single room rent;

(a) Paragraph (3) was amended by regulation 4 of S.R. 1993 No. 145 and regulation 5(a) and (b) of S.R. 1996 No. 111

(b) Paragraph (6B) was added by regulation 5(c) of S.R. 1996 No. 111

(c) Paragraph 2(1A) was inserted by regulation 11 of S.R. 1991 No. 47 and amended by regulation 10(a) of S.R. 1993 No. 145

(d) Paragraph (6A) was added by regulation 5(c) of S.R. 1996 No. 111

(e) Regulation 11 was substituted by regulation 7 of S.R. 1996 No. 111

(f) Paragraph (3A) was inserted by regulation 4(b) of S.R. 1996 No. 181 and amended by regulation 2(a) of S.R. 1997 No. 170 which was substituted by regulation 2(2)(a) of S.R. 1997 No. 377

(g) Paragraph (3B) was inserted by regulation 2(b) of S.R. 1997 No. 170 which was substituted by regulation 2(2)(b) of S.R. 1997 No. 377

(b) where—

- (i) the Executive has determined a single room rent and a claim-related rent;
- (ii) the claim-related rent includes payment in respect of meals, and
- (iii) the single room rent is greater than the claim-related rent less an amount in respect of meals determined in accordance with paragraph 1A(a) of Schedule 1 (amount ineligible for meals),

that maximum rent shall not exceed the claim-related rent less that amount in respect of meals.”;

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

“(11) In a case where a charge for meals is ineligible to be met by housing benefit under regulation 10(3) and paragraph 1(c) of Schedule 1 (ineligible service charges) there shall be deducted an amount determined in accordance with paragraph 1A of Schedule 1 in respect of meals in the calculation of a person’s maximum rent.”.

Amendment of regulation 61 of the principal Regulations

5. In regulation 61 of the principal Regulations(d) (maximum housing benefit) for paragraph (2) there shall be substituted the following paragraphs—

“(2) Subject to paragraphs (2A) and (4), in a case where—

(a) regulation 11 (maximum rent) applies, and

(b) the Executive is satisfied that—

- (i) the claimant would be entitled to housing benefit, and
- (ii) the claimant or a member of his family will suffer exceptional hardship unless the amount which would be the claimant’s maximum housing benefit is increased,

the Executive may determine that the amount of the person’s appropriate maximum housing benefit shall be such greater amount as it considers appropriate in the particular circumstances of the case.

(2A) A person’s appropriate maximum housing benefit under paragraph (2) shall not exceed in any week an amount which represents his eligible rent calculated—

(a) Paragraph 1A was added by regulation 7(b) of S.R. 1988 No. 314 and amended by regulation 14 of S.R. 1997 No. 22 and Article 19(5) of S.R. 2000 No. 38

(b) Paragraph 11 was amended by regulation 4(c) of S.R. 1996 No. 181 and regulation 4(3) of S.R. 2000 No. 1

(c) Paragraph 1 was amended by regulation 7(a) of S.R. 1988 No. 314, regulation 15 of S.R. 1991 No. 337, regulation 2 of S.R. 1994 No. 137 and regulation 7(2) of S.R. 1999 No. 416

(d) Regulation 61 was amended by regulation 7 of S.R. 1990 No. 345, regulation 6 of S.R. 1992 No. 549 and regulation 10 of S.R. 1996 No. 111

- (a) as though a maximum rent had not been, nor falls to be, determined in his case;
- (b) as though the amount to be deducted for ineligible services falling to be determined as an ineligible charge (construed in accordance with paragraph 6(1)(a) of Schedule 1A) were the amount so determined; and
- (c) on a weekly basis in accordance with regulations 69 and 70 (calculation of weekly amounts and rent and rate-free periods) after any deduction made in accordance with section 129(3)(b) of the Contributions and Benefits Act (taper) and regulation 63 (non-dependant deductions).”.

Amendment of regulation 102 of the principal Regulations

6. In regulation 102(4) of the principal Regulations(**a**) (method of recovery) for “paragraphs 13 or 15” there shall be substituted “paragraphs 13 to 16”.

Amendment of Schedule 1B to the principal Regulations

7. In Schedule 1B to the principal Regulations(**b**) (excluded tenancies) for sub-paragraph (2) of paragraph 2 there shall be substituted the following sub-paragraphs—

“(2) Subject to sub-paragraph (2A), for the purposes of any claim, notification or request (“the later application”), a tenancy shall not be an excluded tenancy by virtue of sub-paragraph (1) by reference to the Executive’s determination made in consequence of an earlier claim, notification or request (“the earlier application”)—

- (a) where—
 - (i) the earlier and later applications were made in respect of the same claimant—
 - (aa) the benefit period to which the earlier application related began, or
 - (bb) where the benefit period was extended, the extension began, 52 weeks or more before the first day of the benefit period to which the later application relates, and
 - (ii) the claimant has been continuously entitled to housing benefit since—
 - (aa) the beginning of the benefit period to which the earlier application related, or
 - (bb) where the benefit period was extended, the beginning of that extension, or

(a) Regulation 102 was substituted by regulation 4 of S.R. 2000 No. 265
 (b) Schedule 1B was inserted by Schedule 2 to S.R. 1996 No. 111 and paragraph 2(2) was substituted by regulation 7 of S.R. 2000 No. 1

- (b) where the earlier and later applications were made in respect of different claimants, and the Executive's determination—
- (i) was made more than 12 months before the date on which the Executive received the later application, or
 - (ii) was relevant for the purposes of a benefit period of the claimant who made the later application ("benefit period A") which began 52 weeks or more before the first day of the benefit period ("benefit period B") to which the later application relates.

(2A) Sub-paragraph (2)(b)(ii) shall not apply where the claimant who made the later application ceased to be entitled to housing benefit for any period falling between benefit period A and benefit period B."

Transitional provision

8. In a case to which regulation 5(3) (savings) of the Housing Benefit (General) (Amendment No. 4) Regulations (Northern Ireland) 1997(a) applies, regulation 10(3)(b) of the principal Regulations shall have effect as though "and regulation 12(c)" were inserted after "(5) and (6B)".

Sealed with the Official Seal of the Department for Social Development on 23rd February 2001.

(L.S.)

John O'Neill
Senior Officer of the Department
for Social Development

(a) S.R. 1997 No. 170
(b) Paragraph (3) is substituted by regulation 3(a) of these Regulations
(b) Regulation 12 was omitted by regulation 3 of S.R. 1997 No. 170 subject to saving by regulation 5 of those Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations.)

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

Regulation 2 amends regulation 7(1)(h). A person who is liable to make payments in respect of a dwelling shall be treated as not being so liable for housing benefit purposes where the claimant or his partner owned that dwelling before they rented it unless, where the claimant demonstrates that he could not have continued to live there without selling the property, more than five years elapses between the date on which the claimant or his partner relinquished ownership of the property and the date on which housing benefit is claimed.

Regulation 3 substitutes regulation 10(3) which specifies how a claimant's eligible rent is established for housing benefit purposes.

Regulation 4 substitutes regulation 11(3A) and (11) which specify how a claimant's maximum rent is established for housing benefit purposes.

Regulation 5 substitutes regulation 61(2). A claimant's maximum housing benefit may be increased if a maximum rent has been determined in respect of him and he, or a member of his family, would suffer exceptional hardship. In determining such an increase the Northern Ireland Housing Executive shall not include any service charges which remain, in any event, ineligible.

Regulation 6 makes a technical amendment to correct a reference within regulation 102.

Regulation 7 substitutes paragraph 2(2) of Schedule 1B. The Northern Ireland Housing Executive must make a fresh determination in respect of a continuous claim which has lasted 52 weeks or more when the previous determination has ceased to be applicable.

Regulation 8 makes transitional provision for those cases in respect of which the revocation of regulation 12 (restriction on rent increases) of the Housing Benefit (General) Regulations (Northern Ireland) 1987 did not have effect.

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 Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

These Regulations do not impose any charge on business.

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