

2004 No. 145

HOUSING; RATES

The Housing Benefit (Extended Payments (Severe Disablement Allowance and Incapacity Benefit) Amendment) Regulations (Northern Ireland) 2004

Made - - - - - 26th March 2004

Coming into operation in accordance with regulation 1(1)

The Department for Social Development, in exercise of the powers conferred on it by sections 122(1)(d), 129(2) and (4), 131(1), 132(3) and (4), 133(1) and (2)(h) and (j) and 171(1), (3), (4) and (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), and sections 5(1)(a), (b), (d), (e), (h), (j) and (l), 165(4) and (5) 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, with the consent of the Department of Finance and Personnel(d), and after agreement by the Social Security Advisory Committee that proposals in respect of those Regulations should not be referred to it(e), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Extended Payments (Severe Disablement Allowance and Incapacity Benefit) Amendment) Regulations (Northern Ireland) 2004 and shall come into operation on 5th April 2004 immediately following the coming into operation of the Housing Benefit (Abolition of Benefit Periods Amendment) Regulations (Northern Ireland) 2004(f).

(2) In these Regulations –

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

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

Amendment of regulation 2 of the Housing Benefit Regulations

2. In regulation 2(1) of the Housing Benefit Regulations (interpretation) after “extended payment”(i) there shall be inserted the following definition –

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- (a) 1992 c. 7
(b) 1992 c. 8
(c) See Article 8(b) of S.R. 1999 No. 481
(d) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); see also Article 6(b) of S.R. 1999 No. 481
(e) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992
(f) S.R. 2004 No. 144
(g) S.R. 1987 No. 461; relevant amending Rules are S.R. 1989 No. 125, S.R. 1990 Nos. 136 and 345, S.R. 1992 Nos. 85, 404 and 549, S.R. 1993 Nos. 145, 195 and 233, S.R. 1996 Nos. 111, 115 and 334, S.R. 1997 Nos. 3 and 412, S.R. 1998 No. 81, S.R. 2000 No. 38, S.R. 2001 No. 215, S.R. 2002 No. 99 and S.R. 2004 No. 144
(h) 1954 c. 33 (N.I.)
(i) Definition of “extended payment” was inserted by regulation 2 of S.R. 1996 No. 115

“extended payment (severe disablement allowance and incapacity benefit)” means a payment of housing benefit pursuant to regulation 62ZB;”.

Extended payments (severe disablement allowance and incapacity benefit)

3. After regulation 62A of the Housing Benefit Regulations(a) (extended payments) there shall be inserted the following regulation –

“Extended payments (severe disablement allowance and incapacity benefit)

62ZB.—(1) Except in a case in which a person is in receipt of state pension credit, paragraph (2) shall apply where –

- (a) a person ceases to be entitled to housing benefit –
 - (i) in accordance with regulation 65B(b) (date on which housing benefit is to end where entitlement to severe disablement allowance or incapacity benefit ceases), and
 - (ii) the condition referred to in paragraph 1 of Schedule 5B(c) (extended payments (severe disablement allowance and incapacity benefit)) is satisfied in his case, or
- (b) a person ceases to be entitled to housing benefit because he has vacated the dwelling which he occupied as his home and the day on which he did so was either in the week in which he took up employment as an employed or self-employed earner, or in the preceding week, and –
 - (i) he ceased to be entitled to severe disablement allowance or incapacity benefit by reason of taking up employment as an employed or self-employed earner;
 - (ii) he had been entitled to and in receipt of severe disablement allowance, incapacity benefit or a combination of severe disablement allowance and incapacity benefit for a continuous period of at least 26 weeks,
 - (iii) he was not entitled to and in receipt of income support, and
 - (iv) the condition referred to in paragraph 1 of Schedule 5B is satisfied in his case.

(2) A person to whom paragraph (1) applies shall be treated as having made a claim under this regulation and his housing benefit shall be determined in accordance with Schedule 5B and any award so determined shall be referred to in these regulations as an “extended payment (severe disablement allowance and incapacity benefit)”.

(3) For the purposes of any payment pursuant to this regulation –

- (a) except in a case to which paragraph (b) applies the maximum housing benefit of any person mentioned in paragraph (1) shall be that which was applicable to him in the last week of the award of housing benefit which has ceased as mentioned in paragraph (1);
- (b) the maximum housing benefit of any person the amount of whose extended payment (severe disablement allowance and incapacity benefit) is calculated in accordance with paragraph 6(b)(i) of Schedule 5B shall be determined in accordance with paragraph 7 of that Schedule;
- (c) except in a case to which paragraph (d) applies, any person who meets the requirements of paragraph (1) shall be treated as possessing the same amounts of income and capital as they possessed in the last week of the award of housing benefit which has ceased as mentioned in paragraph (1), and
- (d) any person whose maximum housing benefit is determined in accordance with paragraph 7 of Schedule 5B shall be treated as possessing no income or capital.

(4) Regulations 71, 72 and 73 (claims, evidence and information) shall not apply to a claim pursuant to this regulation and, subject to regulation 69(9)(d), Part IX (calculation of weekly amounts) shall not apply to any payment under it.

(a) Regulation 62A was substituted by regulation 10 of S.R. 2004 No. 144
(b) Regulation 65B is inserted by regulation 4 of these Regulations
(c) Schedule 5B is inserted by Schedule 1 to these Regulations
(d) Regulation 69(9) was added by regulation 4 of S.R. 1996 No. 115

(5) In paragraph (1) references to a “person” include references to a person’s partner and references to taking up employment include receiving remuneration for employment or an increased amount of remuneration for employment or engaging in employment for an increased number of hours.

(6) In a case where payment has been made under this regulation –

(a) the beneficiary shall be treated for the purpose of these Regulations and of the Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1996^(a) as though he were entitled to and in receipt of housing benefit –

- (i) during the 4 weeks immediately following the last day of his entitlement to housing benefit, or
- (ii) until the date on which his liability for rent or rates or both ends,

whichever occurs first, and

(b) any claim for housing benefit made by the beneficiary within the period which under sub-paragraph (a) applies in his case or the 4 weeks thereafter shall be treated as having been made in respect of a period beginning immediately after the end of his previous award of housing benefit.”.

Date on which award of benefit is to end where entitlement to severe disablement allowance or incapacity benefit ceases

4. After regulation 65A of the Housing Benefit Regulations^(b) (date on which housing benefit is to end) there shall be inserted the following regulation –

“Date on which housing benefit is to end where entitlement to severe disability allowance or incapacity benefit ceases

65B. Except in a case in which the claimant or his partner is in receipt of state pension credit, a claimant’s entitlement to housing benefit shall cease at the end of the benefit week in which entitlement to severe disablement allowance or incapacity benefit ceases where –

- (a) the claimant or his partner was entitled to and in receipt of income support but was entitled to and in receipt of severe disablement allowance or incapacity benefit and that entitlement has ceased;
- (b) that entitlement to severe disablement allowance or incapacity benefit has ceased by reason of the claimant or his partner –
 - (i) commencing employment as an employed or self-employed earner;
 - (ii) increasing their earnings from such employment, or
 - (iii) increasing the number of hours worked in such employment;
- (c) the claimant had been entitled to and in receipt of severe disablement allowance or incapacity benefit for a continuous period of at least 26 weeks before the day on which his entitlement to severe disablement allowance or incapacity benefit ceased, and for the purposes of this sub-paragraph –
 - (i) a claimant satisfies the conditions of this sub-paragraph if he has been entitled to and in receipt of a combination of severe disablement allowance and incapacity benefit for at least 26 weeks;
 - (ii) references to the claimant include references to his partner, and
- (d) that work, increase in earnings, or as the case may be, increase in hours is expected to last at least 5 weeks or more.”.

Amendment of regulation 69 of the Housing Benefit Regulations

5. In regulation 69(9) of the Housing Benefit Regulations (calculation of weekly amounts) –

- (a) after “extended payment” there shall be inserted “or an extended payment (severe disablement allowance and incapacity benefit)”, and

(a) S.R. 1996 No. 111

(b) Regulation 65A was inserted by regulation 11 of S.R. 2004 No. 144

- (b) after “Part III of Schedule 5A” there shall be inserted “or paragraph 10 of Schedule 5B, as the case may be”.

Insertion of Schedule 5B into the Housing Benefit Regulations

6. After Schedule 5A to the Housing Benefit Regulations(a) (extended payments of housing benefit) there shall be inserted the following Schedule –

“SCHEDULE 5B

EXTENDED PAYMENTS (SEVERE DISABLEMENT ALLOWANCE AND INCAPACITY BENEFIT) OF HOUSING BENEFIT

Condition for an extended payment (severe disablement allowance and incapacity benefit)

1. The condition prescribed in this paragraph is that the claimant or the claimant’s partner –

- (a) notifies either the designated office or an appropriate office that he or his partner –
- (i) has commenced, or is about to commence, remunerative work;
 - (ii) has commenced, or is about to commence, receiving remuneration for work or an increased amount of remuneration for work, or
 - (iii) has commenced, or is about to commence, an increased number of hours of work,

so that entitlement to severe disablement allowance or incapacity benefit ceases and that work, or as the case may be, remuneration, is expected to last 5 weeks or more, and

- (b) the notification is made no later than 4 weeks after the day on which the claimant or his partner first undertakes the remunerative work referred to in sub-paragraph (a)(i), first receives remuneration for the work or an increased amount of remuneration for the work referred to in sub-paragraph (a)(ii), or first commences the increased number of hours of work referred to in sub-paragraph (a)(iii).

Calculation and payment of an extended payment (severe disablement allowance and incapacity benefit)

2.—(1) Subject to sub-paragraphs (2) to (5) and except in the case of a mover, the amount of the extended payment (severe disablement allowance and incapacity benefit) shall be equal to the amount of housing benefit which was payable to the claimant for the last benefit week before he ceased to be entitled to housing benefit.

(2) In a case where the last benefit week referred to in sub-paragraph (1) fell, in whole or in part, within a rent and rate-free period, the last benefit week for the purposes of that sub-paragraph shall be taken to be the last benefit week that did not fall within a rent and rate-free period.

(3) Where the last benefit week before he ceased to be entitled to housing benefit was a week in which the claimant’s eligible rent or rates was calculated in accordance with regulation 69(5)(c)(calculation of weekly amounts), sub-paragraph (1) shall have effect as if the reference to the last benefit week before he ceased to be entitled to housing benefit was a reference to the week before that week.

(4) Subject to paragraph (5), the extended payment (severe disablement allowance or incapacity benefit) shall be payable for each of the weeks in the period specified in regulation 62ZB(6)(a), and shall be paid at such time and in such manner as is appropriate, having regard to –

- (a) the times at which and the frequency with which a person’s liability to make payment of rent or rates arises, and
- (b) the reasonable needs and convenience of the person entitled thereto.

(a) Schedule 5A was inserted by regulation 6 of S.R. 1996 No. 115

(5) No extended payment (severe disablement allowance and incapacity benefit) shall be payable for a week which is a rent and rate-free period for the purposes of regulation 70(1) (rent and rate-free periods).

Movers

3. Paragraphs 4 to 6 apply to movers from –
- (a) the day the move takes place where that day is a Monday, or
 - (b) from the Monday following the day the move takes place where that day is not a Monday.

Movers and rent allowances

4.—(1) Subject to sub-paragraph (2), in the case of a mover whose housing benefit was in the form of a rent allowance, the Executive shall make an extended payment (severe disablement allowance and incapacity benefit) to that mover calculated on the same basis as in paragraph 2, and, for these purposes, the mover shall be treated as continuing to occupy and be liable to make payments in respect of the dwelling he was occupying as his home immediately before he ceased to be entitled to housing benefit.

(2) Notwithstanding sub-paragraph (1), in a case where that mover's liability to make payments in respect of the second dwelling would be to the Executive, any extended payment (severe disablement allowance and incapacity benefit) shall be made by the Executive and shall be determined as provided in paragraph 6(b).

Movers and rent and rate rebates

5. Where, in the case of a mover –
- (a) his housing benefit was in the form of a rent and rate rebate, and
 - (b) he claims an extended payment (severe disablement allowance and incapacity benefit),

the Executive shall, upon receiving the mover's claim for an extended payment (severe disablement allowance or incapacity benefit), which meets the requirements of regulation 62ZB(1), make an extended payment (severe disablement allowance and incapacity benefit), calculated in accordance with paragraph 6, to that mover.

Movers and extended payments (severe disablement allowance and incapacity benefit)

6. In a case to which paragraph 4(2) or 5 applies and where a mover's liability referred to in that paragraph is –

- (a) other than to the Executive, the extended payment (severe disablement allowance and incapacity benefit) shall be a payment by way of rent allowance calculated in accordance with paragraph 2;
- (b) to the Executive, the extended payment (severe disablement allowance and incapacity benefit) shall be by way of a rent and rates rebate to the value of the lesser of –
 - (i) such part of the rent and rates in respect of the period specified in regulation 62ZB(6)(a) as is eligible for housing benefit, calculated in accordance with regulations 8 to 11, less, in a case where the rebate to which paragraph 5 refers, or the rent allowance to which paragraph 4 refers, as the case may be, was subject to any deductions in respect of non-dependants pursuant to regulations 61(b)(a) and 63(b), the amount of those deductions, or

(a) Relevant amending Regulations are S.R. 1990 No. 345, S.R. 1992 No. 549 and S.R. 2001 No. 215
(b) Relevant amending Rules are S.R. 1989 No. 125, S.R. 1990 Nos. 136 and 345, S.R. 1992 Nos. 85, 404 and 549, S.R. 1993 Nos. 145, 195 and 233, S.R. 1996 No. 334, S.R. 1997 No. 3, S.R. 1998 No. 81, S.R. 2000 No. 38 and S.R. 2002 No. 99

- (ii) the amount of extended payment (severe disablement allowance and incapacity benefit) calculated in accordance with paragraph 2.

Maximum housing benefit

7. The maximum housing benefit of a mover the amount of whose extended payment (severe disablement allowance and incapacity benefit) is calculated in accordance with paragraph 6(b)(i) shall be calculated in accordance with regulation 61(1), save that no deduction shall be made in respect of non-dependants, other than any that fall to be taken into account pursuant to paragraph 6(b)(i).

Movers and rate rebates

8. In the case of a mover whose housing benefit was in the form of a rate rebate only the extended payment shall be by way of a discharge to the value of such part of the liability to rates for the period specified in regulation 62A(5)(a), less, in a case where the rebate to which paragraph 5 refers was subject to any deductions in respect of non-dependants pursuant to regulation 61(b) and 63, the amount of those deductions.

Movers with two homes

9. Subject to paragraph 10, any extended payment (severe disablement allowance and incapacity benefit) shall be without prejudice to any entitlement the claimant may have pursuant to regulation 5(5)(a) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home).

Adjustment of entitlement in respect of an extended payment (severe disablement allowance and incapacity benefit)

10. Where for any week –

- (a) a person is entitled to an extended payment (severe disablement allowance and incapacity benefit), and
- (b) he also claims and is awarded housing benefit,

then the amount of the housing benefit payable in respect of that week shall be reduced by a sum equal to the amount of the extended payment (severe disablement allowance and incapacity benefit) and only the balance, if any, shall be payable to him for that week.

Interpretation

11. In this Schedule –

“claimant” means a person claiming an extended payment (severe disablement allowance and incapacity benefit);

“mover” means a claimant who changes the dwelling which he occupies as his home in respect of which he is liable or treated as liable to make payments;

“second dwelling” means the dwelling to which a person has moved, or is about to move, which he is or will be occupying as his new home, and where the liability to make payments of rent or rates or both in respect of his dwelling follows on immediately from the liability to make payments of rent or rates or both of his previous dwelling.”.

Sealed with the Official Seal of the Department for Social Development on 26th March 2004.

(L.S.)

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

(a) Relevant amending Regulations are S.R. 1992 No. 549, S.R. 1993 No. 145 and S.R. 1997 No. 412

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

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

(L.S.)

Ciaran Doran
Senior Officer of the Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

Regulation 2 inserts a new definition in the Housing Benefit Regulations.

Regulation 3 inserts regulations 62ZB in the Housing Benefit Regulations which provide for extended payments (severe disablement allowance and incapacity benefit) in certain cases in which entitlement to housing benefit ceases.

Regulation 4 inserts regulations 65B in the Housing Benefit Regulations which provide for circumstances in which entitlement to housing benefit is to end where entitlement to incapacity benefit or severe disablement allowance ceases.

Regulation 5 makes minor amendments to regulation 69 of the Housing Benefit Regulations to provide for adjustment of entitlement to housing benefit where a claimant has received an extended payment (severe disablement allowance and incapacity benefit).

Regulation 6 inserts Schedule 5B into the Housing Benefit Regulations. The Schedule provides for notification which must be given, calculation and payment of extended payments (severe disablement allowance and incapacity benefit), adjustment of entitlement and the treatment of movers.

These Regulations do not impose any charge on business.

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