
STATUTORY RULES OF NORTHERN IRELAND

2007 No. 203

**The Rate Relief (Qualifying Age)
Regulations (Northern Ireland) 2007**

PART 15

Enforcement

Authorisations for investigators

44.—(1) An individual who for the time being has the Department's authorisation for the purposes of this Part, shall be entitled, for any one or more of the purposes mentioned in paragraph (2), to exercise any of the powers which are conferred on an authorised officer by regulation 45 (provision of information).

(2) Those purposes are—

- (a) ascertaining in relation to any case whether rate relief is or was payable in that case in accordance with any provision of the principal Order;
- (b) ascertaining whether provisions of the principal Order relating to rate relief are being, have been or are likely to be contravened (whether by particular persons or more generally);
- (c) preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of rate relief offences.

(3) An individual has the Department's authorisation for the purposes of this Part, if, and only if, the Department has granted him an authorisation for those purposes and he is—

- (a) an official of the Department;
- (b) an individual employed by the Executive; or
- (c) an individual authorised to carry out functions of the Executive relating to rate relief.

(4) An authorisation granted for the purposes of this Part, to an individual of any of the descriptions mentioned in paragraph (3)—

- (a) shall be contained in a certificate provided to that individual as evidence of his entitlement to exercise powers conferred by this Part;
- (b) may contain provision as to the period for which the authorisation is to have effect; and
- (c) may restrict the powers exercisable by virtue of the authorisation so as to prohibit their exercise except for particular purposes, in particular circumstances or in relation to particular provisions of the principal Order.

(5) An authorisation granted under this regulation may be withdrawn at any time by the Department.

(6) Where the Department grants an authorisation for the purposes of this Part, to an individual employed by the Executive, or to an individual authorised to carry out functions of the Executive relating to rate relief—

- (a) the Department and the Executive shall enter into such arrangements (if any) as they consider appropriate with respect to the carrying out of functions conferred on that individual by or in connection with the authorisation granted to him; and
- (b) the Department may make to the Executive such payments (if any) as the Department thinks fit in respect of the carrying out by that individual of any such functions.

(7) The matters on which a person may be authorised to consider and report to the Department under regulation 56 shall be taken to include the carrying out by any such individual as is mentioned in sub-paragraph (b) or (c) of paragraph (3) of any functions conferred on that individual by virtue of any grant by the Department of an authorisation for the purposes of this Part.

(8) The powers conferred by regulation 45 shall be exercisable in relation to persons holding office under the Crown and persons in the service of the Crown, and in relation to premises owned or occupied by the Crown, as they are exercisable in relation to other persons and premises.

Provision of information

45.—(1) An authorised officer who has reasonable grounds for suspecting that a person—

- (a) is a person falling within paragraph (2); and
- (b) has or may have possession of or access to any information about any matter that is relevant for any one or more of the purposes mentioned in regulation 44(2),

may, by written notice, require that person to provide all such information described in the notice as is information of which he has possession, or to which he has access, and which it is reasonable for the authorised officer to require for a purpose so mentioned.

(2) The persons who fall within this paragraph are—

- (a) any person who is or has been an employer or employee within the meaning of any provision made by or under the Act;
- (b) any person who is or has been a self-employed earner within the meaning of any such provision;
- (c) any person who by virtue of any provision made by or under the Act falls, or has fallen, to be treated for the purposes of any such provision as a person within sub-paragraph (a) or (b);
- (d) any person who is carrying on, or has carried on, any business involving the supply of goods for sale to the ultimate consumers by individuals not carrying on retail businesses from retail premises;
- (e) any person who is carrying on, or has carried on, any business involving the supply of goods or services by the use of work done or services performed by persons other than employees of his;
- (f) any person who is carrying on, or has carried on, an agency or other business for the introduction or supply, to persons requiring them, of persons available to do work or to perform services;
- (g) any district council acting in its capacity as an authority responsible for the granting of any licence;
- (h) any person who is or has been a trustee or manager of a personal or occupational pension scheme as defined in the Administration Act; and
- (i) the servants and agents of any such person as is specified in any of sub-paragraphs (a) to (h).

(3) The obligation of a person to provide information in accordance with a notice under this regulation shall be discharged only by the provision of that information, at such reasonable time and in such form as may be specified in the notice, to the authorised officer who—

- (a) is identified by or in accordance with the terms of the notice; or
- (b) has been identified, since the giving of the notice, by a further written notice given by the authorised officer who imposed the original requirement or another authorised officer.

(4) The power of an authorised officer under this regulation to require the provision of information shall include a power to require the production and delivery up and (if necessary) creation of, or of copies of or extracts from any such documents containing the information as may be specified or described in the notice imposing the requirement.

(5) A person shall not be required under this regulation to provide—

- (a) any information that tends to incriminate either himself or, in the case of a person who is married or is a civil partner, his spouse or civil partner; or
- (b) any information in respect of which a claim to legal professional privilege would be successful in any proceedings;

and for the purposes of this paragraph it is immaterial whether the information is in documentary form or not.

Authorisations by Housing Executive

46.—(1) An individual who for the time being has the authorisation of the Executive for the purposes of this Part, (“a Housing Executive authorisation”) shall be entitled, for any one or more of the purposes mentioned in paragraph (2), to exercise any of the powers which, subject to paragraph (7), are conferred on an authorised officer by regulation 45 (power to require information).

(2) Those purposes are—

- (a) ascertaining in relation to any case whether rate relief is or was payable in that case;
- (b) ascertaining whether provisions of the principal Order that relate to rate relief are being, have been or are likely to be contravened (whether by particular persons or more generally);
- (c) preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of rate relief offences.

(3) An individual has the authorisation of the Executive, for the purposes of this Part, if, and only if, the Executive has granted him an authorisation for those purposes and he is—

- (a) an individual employed by the Executive;
- (b) an individual authorised to carry out functions of the Executive relating to rate relief; or
- (c) an official of a government department.

(4) Regulation 44(4) shall apply in relation to a Housing Executive authorisation as it applies in relation to an authorisation under regulation 44.

(5) A Housing Executive authorisation may be withdrawn at any time by the Executive or by the Department.

(6) It shall be the duty of the Executive to comply with any directions of the Department as to—

- (a) whether or not Housing Executive authorisations are to be granted by the Executive;
- (b) the period for which authorisations granted by the Executive are to have effect;
- (c) the number of persons who may be granted authorisations by the Executive at any one time; and

- (d) the restrictions to be contained by virtue of subsection (4) above in the authorisations granted by the Executive for those purposes.
- (7) The powers conferred by regulation 45 shall have effect in the case of an individual who is an authorised officer by virtue of this regulation as if regulation 45 had effect—
 - (a) with the substitution for every reference to the purposes mentioned in regulation 44(2) of a reference to the purposes mentioned in paragraph (2); and
 - (b) with the substitution for every reference to the principal Order of a reference to so much of it as relates to rate relief.

Delay, obstruction etc. of inspector

47. If a person refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under these Regulations, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

False representations for obtaining relief

48.—(1) If a person for the purpose of obtaining rate relief under the principal Order, whether for himself or some other person, or for any other purpose connected with that legislation—

- (a) makes a statement or representation which he knows to be false; or
- (b) produces or furnishes, or knowingly causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

he shall be guilty of an offence.

(2) A person shall be guilty of an offence if—

- (a) there has been a change of circumstances affecting any entitlement of his to rate relief under any provision of the principal Order;
- (b) the change is not a change that is required to be notified;
- (c) he knows that the change affects an entitlement of his to such rate relief; and
- (d) he fails to give a prompt notification of that change in the prescribed manner to the prescribed person.

(3) For the purposes of paragraph (2) a notification of a change is prompt if, and only if, it is given as soon as reasonably practicable after the change occurs.

(4) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 3 months, or to both.

Breach of regulations

49.—(1) A person who contravenes, or fails to comply with, any provision of these Regulations shall be guilty of an offence.

(2) A person guilty of such an offence as is mentioned in paragraph (1) shall be liable on summary conviction—

- (a) to a fine not exceeding level 3 on the standard scale;
- (b) in the case of an offence of continuing a contravention or failure after conviction, to a fine not exceeding £40 for each day on which it is so continued.

Penalty as alternative to prosecution

50.—(1) This regulation applies where an overpayment is recoverable from a person by, or due from a person to, the Department or the Executive under or by virtue of regulation 32 and it appears to the Department or the Executive that—

- (a) the making of the overpayment was attributable to an act or omission on the part of that person; and
- (b) there are grounds for instituting against him proceedings for an offence (under the principal Order or any other statutory provision) relating to the overpayment.

(2) The Department or the Executive may give to the person a written notice—

- (a) stating that he may be invited to agree to pay a penalty and that, if he does so in the manner specified by the Department or the Executive, no such proceedings will be instituted against him; and
- (b) containing such information relating to the amount and period of the overpayment.

(3) The amount of the penalty shall be 30 per cent. of the amount of the overpayment (rounded down to the nearest whole penny).

(4) If the person agrees in the specified manner to pay the penalty—

- (a) the amount of the penalty shall be recoverable by the same methods as those by which the overpayment is recoverable; and
- (b) no proceedings will be instituted against him for an offence (under the principal Order or any other statutory provision) relating to the overpayment.

(5) The person may withdraw his agreement to pay the penalty by notifying the Department or the Executive, in the manner specified by the Department or the Executive, at any time during the period of 28 days beginning with, and including, the day on which he agrees to pay it; and if he does so—

- (a) so much of the penalty as has already been recovered shall be repaid; and
- (b) paragraph (4)(b) shall not apply.

(6) Where, after the person has agreed to pay the penalty, it is decided on a review or appeal that the overpayment is not recoverable or due, so much of the penalty as has already been recovered shall be repaid.

(7) Where, after the person has agreed to pay the penalty, the amount of the overpayment is revised on a review or appeal—

- (a) so much of the penalty as has already been recovered shall be repaid; and
- (b) paragraph (4)(b) shall no longer apply by reason of the agreement; but if a new agreement is made under this regulation in relation to the revised overpayment, the amount already recovered by way of penalty, to the extent that it does not exceed the amount of the new penalty, may be treated as recovered under the new agreement instead of being repaid.

(8) Subject to paragraph (9), the Department and the Executive may agree that, to the extent determined by the agreement, one may carry out on the other's behalf, or may join in the carrying out of, any of the other's functions under this regulation.

(9) Paragraph (8) shall not authorise any delegation of the function of the person by whom any overpayment is recoverable, or to whom it is due, of determining whether or not a notice should be given under paragraph (2) in respect of that overpayment.

(10) In this regulation "overpayment" means—

- (a) a payment which should not have been made;
- (b) a sum which the Department should have received;
- (c) an amount of rate relief paid in excess of entitlement; or

- (d) an amount equal to an excess of rate relief allowed;

and the reference in paragraph (1)(a) to the making of the overpayment is to the making of the payment, the failure to receive the sum, the payment of rate relief in excess of entitlement or the allowing of an excess of rate relief.

Notice

51.—(1) Where the Department or the Executive gives to a person a written notice under regulation 50(2), the notice shall contain the information that—

- (a) the penalty only applies to an overpayment which is recoverable under section 73 of the Administration Act as applied with modifications for the purposes of these Regulations by regulation 31;
- (b) the penalty only applies where it appears to the relevant authority that the making of the overpayment was attributable to an act or omission by the person and that there are grounds for instituting proceedings for an offence relating to the overpayment;
- (c) the penalty is 30 per cent. of the amount of the overpayment, is payable in addition to repayment of the overpayment and is recoverable by the same methods as those by which the overpayment is recoverable;
- (d) a person who agrees to pay a penalty may withdraw the agreement within 28 days (including the date of the agreement) by notifying the relevant authority in the manner specified by the relevant authority; if the person withdraws the agreement, so much of the penalty as has already been recovered shall be repaid and the person will no longer be immune from proceedings for an offence;
- (e) if it is decided on review or appeal (or in accordance with regulations) that the overpayment is not recoverable or due, so much of the penalty as has already been recovered shall be repaid;
- (f) if the amount of the overpayment is revised on review or appeal, except as covered by a new agreement to pay the revised penalty, so much of the penalty as has already been recovered shall be repaid and the person will no longer be immune from proceedings for an offence;
- (g) the payment of a penalty does not give the person immunity from prosecution in relation to any other overpayment or any offence not relating to an overpayment.

(2) The notice shall set out—

- (a) the manner specified by the relevant authority by which the person may agree to pay a penalty;
- (b) the manner specified by the relevant authority by which the person may notify the withdrawal of his agreement to pay a penalty.

Legal proceedings

52.—(1) Any person authorised by the Department or the Executive in that behalf may conduct any proceedings under any provision of the principal Order relating to rate relief before a magistrates' court, although not a barrister or solicitor.

(2) Notwithstanding anything in any statutory provision proceedings for an offence under the principal Order relating to rate relief may be begun at any time within the period of 3 months from the date on which evidence, sufficient in the opinion of the Department or the Executive to justify a prosecution for the offence, comes to its knowledge or within a period of 12 months from the commission of the offence, whichever period last expires.

(3) For the purposes of paragraph (2) a certificate purporting to be signed by or on behalf of the Minister in charge of the Department or by a senior officer of the Department or by a member of the Executive or by an officer of the Executive authorised by it to act for the purposes of this regulation as to the date on which such evidence as is mentioned in paragraph (2) came to its or the Executive's knowledge shall be conclusive evidence of that date.

(4) Subject to paragraph (5), in proceedings for an offence under the principal Order relating to rate relief, the wife or husband of the accused is competent to give evidence, whether for or against the accused.

(5) The wife or husband is not compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him by the accused during the marriage.

Interpretation of enforcement provisions

53.—(1) In this Part “authorised officer” means a person acting in accordance with any authorisation for the purposes of this Part, which is for the time being in force in relation to him.

(2) For the purposes of this Part—

- (a) references to a document include references to anything in which information is recorded in electronic or any other form;
- (b) the requirement that a notice given by an authorised officer be in writing shall be taken to be satisfied in any case where the contents of the notice—
 - (i) are transmitted to the recipient of the notice by electronic means; and
 - (ii) are received by him in a form that is legible and capable of being recorded for future reference.

(3) In this Part, “premises” includes—

- (a) moveable structures and vehicles, vessels, aircraft and hovercraft;
- (b) installations that are offshore installations for the purposes of the Mineral Workings (Offshore Installations) Act 1971(1); and
- (c) places of all other descriptions whether or not occupied as land or otherwise,

and references in this Part to the occupier of any premises shall be construed, in relation to premises that are not occupied as land, as references to any person for the time being present at the place in question.

(4) In this Part—

“rate relief offence” means—

- (a) any criminal offence in connection with a claim for a rate relief;
- (b) any criminal offence in connection with the receipt or payment of any amount by way of such a rate relief;
- (c) any criminal offence committed for the purpose of facilitating the commission (whether or not by the same person) of a rate relief offence;
- (d) any attempt or conspiracy to commit a rate relief offence.

(5) In this Part—

- (a) any reference to a person authorised to carry out any function relating to rate relief shall include a reference to a person providing services relating to that rate relief directly or indirectly to the Executive; and

- (b) any reference to the carrying out of a function relating to rate relief shall include a reference to the provision of any services relating to it.