

2008 No. 124

RATES

**The Rate Relief (Lone Pensioner Allowance) Regulations
(Northern Ireland) 2008**

Made - - - - *14th March 2008*

Coming into operation - *1st April 2008*

The Department of Finance and Personnel makes the following Regulations in exercise of the powers conferred by Article 30A of the Rates (Northern Ireland) Order 1977(a).

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Rate Relief (Lone Pensioner Allowance) Regulations (Northern Ireland) 2008 and shall come into operation on 1st April 2008.

Interpretation

2.—(1) In these Regulations—

“the 1992 Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b);

“the 2003 Order” means the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(c);

“applicant” means a person who has made an application under regulation 5 or on whose behalf such an application has been made;

“dwelling-house” includes a hereditament which is used partly for the purposes of a private dwelling but only in so far as it is so used;

“the Executive” means the Northern Ireland Housing Executive;

“rebate” means a rebate under regulation 3(1);

“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983(d); and

“relevant authority” means an authority administering these Regulations.

(a) S.I. 1977/2157 (N.I. 28); Article 30 was inserted by Article 14 of the Rates (Amendment) (Northern Ireland) Order 2006, S.I. 2006/2954 (N.I. 18)

(b) 1992 c.7

(c) S.I. 2003/431 (N.I. 9)

(d) 1983 c.54

(2) For the purposes of these Regulations a person who has his only or principal residence in a dwelling-house shall be deemed to be occupying that dwelling-house.

PART 2

Lone Pensioner Allowance

Grant of lone pensioner allowance

3.—(1) Subject to the provisions of these Regulations, the relevant authority shall each year grant to a person who has attained the age of 70 years a rebate from the rates chargeable in respect of a dwelling-house which is occupied solely by him.

(2) Where a person occupies more than one dwelling-house, a rebate shall be granted only in respect of the dwelling-house which that person occupies as his only or principal residence or, if he does not occupy any dwelling-house as his only or principal residence, the dwelling-house which he last occupied as his only or principal residence.

(3) In determining for the purposes of paragraph (1) whether a dwelling-house is occupied solely by a person who has attained the age of 70 years, any other person who falls within a description specified in the Schedule shall be disregarded.

(4) In determining whether a person occupies more than one dwelling-house for the purposes of paragraph (2), regard shall be had to any dwelling-house occupied by that person whether or not the dwelling-house is in Northern Ireland.

(5) Where the conditions for the grant of a rebate (other than the requirement for an application) apply for part only of a year, the amount of the rebate shall be proportionately reduced and if too large an amount has been paid or allowed by way of rebate the excess shall be recoverable summarily by the relevant authority as a debt.

Administration

4.—(1) These Regulations shall be administered by the Executive in so far as they relate to persons who are tenants of the Executive, private tenants or tenants of registered housing associations but otherwise shall be administered by the Department.

(2) In this regulation—

“private tenants” means tenants under any tenancy except—

- (a) a tenancy under which the estate of the landlord belongs to the Executive or a registered housing association;
- (b) a tenancy the purpose of which is to confer on the tenant the right to occupy a hereditament for a holiday;

“registered housing association” means a housing association registered in the register maintained under Part II of the Housing (Northern Ireland) Order 1992(a).

Applications

5. A rebate shall be granted only if an application containing such information as the Department may reasonably require is made to a relevant authority by or on behalf of the person entitled to the rebate.

Use of information

6. Where information is given or evidence is gathered in relation to a claim for housing benefit or a claim under—

(a) S.I. 1992/1725 (N.I. 15)

- (a) the Rate Relief (Qualifying Age) Regulations (Northern Ireland) 2007(a); or
- (b) the Rate Relief (General) Regulations (Northern Ireland) 2007(b),

that information or evidence may be used in relation to an application under regulation 5 but only where the claimant has given permission, in writing, for such information or evidence to be so used.

Method of grant of rebate

7. A rebate may be granted either by making a payment of the amount of the rebate to the person who is entitled to the rebate or by reducing the amount of any payment which that person is liable to make by way of rates.

Amount of rebate

8.—(1) Subject to paragraphs (2) to (4), the amount of a rebate shall be 20 per cent. of the amount which, apart from these Regulations, would have been chargeable by way of rates in respect of the dwelling-house.

(2) In determining for the purposes of paragraph (1) the amount which, apart from these Regulations, would have been chargeable by way of rates in respect of a dwelling-house, any allowance under Article 20, 21 or 30 of the Rates (Northern Ireland) Order 1977(c) shall be disregarded.

(3) Where a person entitled to a rebate under these Regulations is also entitled to a rebate provided by virtue of a scheme under section 122 of the 1992 Act in respect of the same dwelling-house and period (“the housing benefit rebate”), paragraph (1) shall have effect as if the rates chargeable in respect of the dwelling-house for that period were reduced by the amount of the housing benefit rebate.

(4) Where a person entitled to a rebate under these Regulations is also entitled to a rebate under—

- (a) the Rate Relief (Qualifying Age) Regulations (Northern Ireland) 2007; or
- (b) the Rate Relief (General) Regulations (Northern Ireland) 2007,

in respect of the same dwelling-house and period (“the rate relief rebate”), paragraph (1) shall have effect as if the rates chargeable in respect of the dwelling-house for that period were reduced by the amount of the rate relief rebate.

PART 3

Reviews and Appeals

Review by the relevant authority

9.—(1) Where an application has been made under regulation 5, the relevant authority shall serve notice of its decision on the applicant.

(2) Any person who is aggrieved by a decision of a relevant authority notified to him under paragraph (1) may, within twenty-eight days of the service of the notice on him, apply to the relevant authority for a review by that authority of its decision.

(3) The relevant authority shall serve on that person a notice of the result of the review.

(a) S.R. 2007 No. 203 as amended by S.R. 2007 No. 244 and S.R. 2008 No. 68

(b) S.R. 2007 No. 204

(c) S.I. 1977/2157 (N.I. 28); Article 20 was amended by Article 3(2)(b) of the Rates (Amendment) (Northern Ireland) Order 1983, S.I. 1983/421 (N.I. 7) and by Article 35 of the Rates (Amendment) (Northern Ireland) Order 2006, S.I. 2006/2954 (N.I. 18); Article 21 was amended by Article 4 of the Rates (Amendment) (Northern Ireland) Order 1998, S.I. 1998/3164 (N.I. 22) and by S.R. 2007 No. 2; Article 30 was amended by Article 4 of the Rates (Amendment) (Northern Ireland) Order 1983 and by paragraph 13 of Schedule 2 to the Rates (Amendment) (Northern Ireland) Order 2006

Appeals to and from the Valuation Tribunal

10.—(1) If a person on whom a notice is served under regulation 9(3) is dissatisfied with the result of the review, he may appeal to the Valuation Tribunal.

(2) The relevant authority or any person aggrieved by a decision of the Valuation Tribunal under paragraph (1) as being erroneous on a point of law may require the Valuation Tribunal to state and sign a case for the Court of Appeal.

Sealed with the Official Seal of the Department of Finance and Personnel on 14th March 2008



Brian McClure

A senior officer of the Department of Finance and Personnel

SCHEDULE

Regulation 3(3)

Disregarded Persons

1.—(1) A person who is engaged in providing care to the person who has attained the age of 70 years in the circumstances set out in sub-paragraph (2).

(2) The circumstances referred to in sub-paragraph (1) are—

- (a) that the person who has attained the age of 70 years is entitled to a prescribed benefit;
- (b) the person providing the care is resident in the same dwelling-house as the person who has attained the age of 70 years;
- (c) the care is being provided for at least 35 hours a week on average; and
- (d) the person providing the care is not a disqualified relative of the person who has attained the age of 70 years.

(3) In this paragraph “prescribed benefit” means—

- (a) a higher rate attendance allowance under section 65 of the 1992 Act;
- (b) the highest rate of the care component of a disability living allowance under section 72(4)(a) of that Act;
- (c) an increase in the rate of a disablement pension under section 104 of that Act by an amount which is the highest amount determined in accordance with paragraph (a) of regulation 17 of the Social Security (General Benefit) Regulations (Northern Ireland) 1984(a) or, in a case to which paragraph (b) of that regulation applies, the amount determined in accordance with that paragraph; or
- (d) a constant attendance allowance at the rate provided for by article 14(4) or (5) of the Personal Injuries (Civilians) Scheme 1983(b) or article 8(4) or (5) or 71(4)(b) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order

(a) S.R. 1984 No. 92

(b) S.I. 1983/686; relevant amending instruments are S.I. 2001/420 and S.I. 2007/646

2006(a) (including those provisions as applied, whether with or without modifications, by any other instrument).

- (4) For the purposes of this paragraph, a person is a disqualified relative of another if—
- (a) he is the spouse of the other or they live together as husband and wife; or
 - (b) he is the civil partner of the other or they live together as if they were civil partners.
- 2.—(1) A person who—
- (a) is receiving care from the person who has attained the age of 70 years; and
 - (b) fulfils the requirements set out in sub-paragraph (2).
- (2) The requirements referred to in sub-paragraph (1) are that the person is—
- (a) entitled to a prescribed benefit;
 - (b) resident in the same dwelling-house as the person who has attained the age of 70 years who is providing him with care;
 - (c) receiving that care for at least 35 hours a week on average; and
 - (d) not a disqualified relative of that person.
- (3) Sub-paragraphs (3) and (4) of paragraph 1 shall apply for the purposes of this paragraph as they apply for the purposes of paragraph 1.
- 3.—(1) A person who is a patient having his only or principal residence in a hospital.
- (2) In this paragraph “hospital” has the same meaning as in Article 2 of the 2003 Order.
- 4.—(1) A person who—
- (a) has his only or principal residence in a nursing home or residential care home; and
 - (b) is receiving care or treatment (or both) in that home.
- (2) In this paragraph—
- “nursing home” has the same meaning as in Article 11 of the 2003 Order; and
 - “residential care home” has the same meaning as in Article 10 of the 2003 Order.
- 5.—(1) A person certified by a registered medical practitioner to be or to be likely to be severely mentally impaired.
- (2) For the purposes of this paragraph a person is severely mentally impaired if he has a severe impairment of intelligence or social functioning (however caused) which appears to be permanent.
6. A person who has not attained the age of 18 years.
7. A person who has attained the age of 18 years in respect of whom another person is entitled to child benefit or would be so entitled but for paragraph 1(1)(f) of Schedule 9 to the 1992 Act.

(a) S.I. 2006/606; relevant amending instruments are S.I. 2006/1455 and S.I. 2007/909

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for a 20 per cent. rates rebate for a person who has attained the age of 70 years in respect of a dwelling which is occupied solely by him. The Regulations provide—

- (a) for the grant of the rebate (regulation 3(1));
- (b) that where a person occupies more than one dwelling, a rebate shall be granted only in respect of the dwelling which that person occupies as his only or principal residence (regulation 3(2));
- (c) that in determining whether a dwelling is occupied solely by a person who has attained the age of 70 years, certain other persons are to be disregarded (regulation 3(3) and the Schedule);
- (d) for the administration of the rebate by the Northern Ireland Housing Executive (“the Executive”) in the case of Executive tenants, housing association tenants and private tenants and by the Department of Finance and Personnel (“the Department”) in all other cases (regulation 4);
- (e) that a rebate shall be granted only if an application is made to the Department or the Executive (regulation 5);
- (f) for information gathered in relation to a claim for housing benefit or rate relief to be used in relation to an application for a rebate under these Regulations but only with the consent of the claimant (regulation 6);
- (g) for the rebate to be granted either by making a payment of the amount of the rebate to the person entitled to the rebate or by reducing the amount of any payment which that person is liable to make by way of rates (regulation 7);
- (h) for the rebate to be applied after other reliefs including housing benefit and rate relief but before any allowance made under Article 20, 21 or 30 of the Rates (Northern Ireland) Order 1977 (regulation 8); and
- (i) for the review of decisions made by the Department or the Executive and for appeals to the Northern Ireland Valuation Tribunal (regulations 9 and 10).