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STATUTORY RULES OF NORTHERN IRELAND

2016 No. 326

SOCIAL SECURITY

The Housing Benefit (Amendment No. 2) Regulations (Northern Ireland) 2016

Made - - - - - *12th September 2016*

Laid before Parliament *13th September 2016*

Coming into operation in accordance with regulation 1(2) and (3).

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by section 122(1)(d), 129A(2), (3) and (4), 133(1) and (2)(h), and 171(1), (3), (4) and (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), and Article 74(3) and (6) of the Social Security (Northern Ireland) Order 1998(b).

These powers are exercisable by the Secretary of State by virtue of Article 4(1)(b) of the Welfare Reform (Northern Ireland) Order 2015(c).

Citation and commencement

1.—(1) These Regulations may be cited as the Housing Benefit (Amendment No. 2) Regulations (Northern Ireland) 2016.

(2) This regulation and regulation 7 come into operation on 14th September 2016.

(3) The remaining provisions of these Regulations come into operation on 23rd January 2017.

Interpretation

2.—(1) In these Regulations—

“the Housing Benefit Regulations” means the Housing Benefit Regulations (Northern Ireland) 2006(d); and

(a) 1992 c. 7; section 129A was inserted by section 30(2) of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)) and subsequently amended by Article 75 of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21). Section 133(1) is cited for the meaning of “prescribed”

(b) S.I. 1998/1506 (N.I. 10)

(c) S.I. 2015/2006 (N.I. 1)

(d) S.R. 2006 No. 405; relevant amending Regulations are S.R. 2008 No. 101, S.R. 2008 No. 428 and S.R. 2011 No. 51

“the Housing Benefit (State Pension Credit) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(a).

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

Amendment of the Housing Benefit Regulations relating to qualifying parents or carers, parents of armed forces personnel who are away from home on operations or who have a child who cannot share a bedroom

3.—(1) The Housing Benefit Regulations are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(1)(c) (interpretation)—

(a) after the definition of “child tax credit” insert—

““child who cannot share a bedroom” means a child—

(a) who is entitled to the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act; and

(b) who the relevant authority is satisfied is, by virtue of his or her disability, not reasonably able to share a bedroom with another child;”;

(b) after the definition of “maximum rent (LHA)” insert—

““member of the armed forces away on operations” means a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006(d)) who is absent, while on operations, from the dwelling usually occupied as their home;”;

(c) after the definition of “qualifying income-related benefit” insert—

““qualifying parent or carer” means a person who has a bedroom in the dwelling they occupy as their home additional to those used by the persons who occupy the dwelling as their home and who—

(a) has a child or qualifying young person placed with them as mentioned in regulation 19(3) who by virtue of that provision is not treated as occupying their dwelling; or

(b) has been approved as a foster parent under regulation 3 of the Foster Placement (Children) Regulations (Northern Ireland) 1996(e) but does not have a child or qualifying young person placed with them and has not had a child or qualifying young person placed with them for a period which does not exceed 52 weeks;”;

(d) in the definition of “young individual”—

(i) at the end of paragraph (d) omit “or”;

(ii) after paragraph (e) add—

“or

(f) who is a qualifying parent or carer;”.

(3) In regulation 14D(f) (determination of a maximum rent (LHA))—

(a) in paragraph (2)(c)(g) for “paragraph (3)” substitute “paragraphs (3) to (3B)”;

(a) S.R. 2006 No. 406; relevant amending Regulations are S.R. 2008 No. 102, S.R. 2008 No. 285, S.R. 2008 No. 378, S.R. 2008 No. 428 and S.R. 2011 No. 51

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

(c) The definition of “maximum rent (LHA)” was inserted by regulation 2(2)(f) of S.R. 2008 No. 101 and the definition of “qualifying income-related benefit” was amended by regulation 3(2)(a)(x) of S.R. 2008 No. 378 and the definition of “young individual” was amended by regulation 2(2)(b)(i) and (ii) of S.R. 2011 No. 51 and regulation 2(2)(a)(i) to (ii) of S.R.2011 No. 293

(d) 2006 c. 52

(e) S.R. 1996 No. 467

(f) Regulations 14 to 14F were substituted for regulation 14 by regulation 2(7) of S.R. 2008 No. 101

(g) Paragraph (2)(c) was amended by regulation 2(5)(a) of S.R. 2011 No. 51

- (b) in paragraph (3)(a)
 - (i) after sub-paragraph (b) insert—
 - “(ba) a child who cannot share a bedroom provided that there is a bedroom in the dwelling occupied as the home that is additional to those to which the claimant would be entitled if the child were able to share a bedroom;”;
 - (ii) after sub-paragraph (e) omit “and one additional bedroom in any case where the claimant or the claimant’s partner is a person who requires overnight care (or in any case where both of them are).”;
- (c) after paragraph (3) add—
 - “(3A) The claimant is entitled to one additional bedroom in any case where—
 - (a) the claimant or the claimant’s partner is (or each of them is) a person who requires overnight care; or
 - (b) the claimant or the claimant’s partner is (or each of them is) a qualifying parent or carer.
 - (3B) The claimant is entitled to two additional bedrooms where paragraph (3A)(a) and (b) both apply.”;
- (d) in paragraph (10) for the definition of “occupiers” substitute—
 - ““occupiers” means—
 - (a) the persons whom the relevant authority is satisfied occupy as their home the dwelling to which the claim or award relates except for any joint tenant who is not a member of the claimant’s household; and
 - (b) any member of the armed forces away on operations who—
 - (i) is the son, daughter, step-son or step-daughter of the claimant or the claimant’s partner;
 - (ii) was the claimant’s non-dependant before they became a member of the armed forces away on operations; and
 - (iii) intends to resume occupying the dwelling as their home when they cease to be a member of the armed forces away on operations;”.
- (4) In regulation 72(b) (non-dependant deductions)—
 - (a) at the end of paragraph (7)(e) omit “or”;
 - (b) after paragraph (7)(f) add—
 - “; or
 - (g) he is not residing with the claimant because he is a member of the armed forces away on operations.”.
- (5) In Part IV of Schedule 2 (size criteria)—
 - (a) in paragraph 10 after sub-paragraph (b) insert—
 - “(ba) a child who cannot share a bedroom provided that there is a bedroom in the dwelling occupied as the home that is additional to those to which the claimant would be entitled if the child were able to share a bedroom;”;
 - (b) for paragraph 10A(c) substitute—
 - “**10A.** One additional bedroom is allowed where on the application for the determination—
 - (a) the tenant or tenant’s partner is (or both of them are) stated as being a person who requires overnight care; or

(a) Paragraph (3) was amended by regulation 2(5)(b) of S.R. 2011 No. 51
 (b) Paragraph (7) was amended by regulation 6(5) of S.R. 2008 No. 428
 (c) Paragraph 10A of Schedule 2 was inserted by S.R. 2011 No. 51

- (b) the tenant or tenant's partner is (or both of them are) stated as being a qualifying parent or carer.

10B. Two additional bedrooms are allowed where sub-paragraphs (a) and (b) of paragraph 10A both apply.”.

(6) In paragraph 2 of Schedule 3 (excluded tenancies)—

(a) after sub-paragraph (3)(f)(a) add—

“(g) the claimant or the claimant's partner becomes, or ceases to be, a qualifying parent or carer where that affects the size criteria, as set out in Part IV of Schedule 2, applicable in the claimant's case; or

(h) an occupier becomes or ceases to be a child who cannot share a bedroom where that affects the size criteria, as set out in Part IV of Schedule 2, applicable in the claimant's case.”;

(b) after sub-paragraph (3) add—

“(4) For the purposes of sub-paragraph (3)(d)(iii) it does not amount to a change in the composition of the household where a son, daughter, step-son or step-daughter of the claimant or the claimant's partner who is the claimant's non-dependant ceases to occupy the dwelling as their home because they become a member of the armed forces away on operations, or subsequently resumes occupying the dwelling as their home on ceasing to be a member of the armed forces away on operations.”.

Amendment of the Housing Benefit (State Pension Credit) Regulations relating to qualifying parents or carers, parents of armed forces personnel who are away from home on operations or who have a child who cannot share a bedroom

4.—(1) The Housing Benefit (State Pension Credit) Regulations are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(1)(b) (interpretation)—

(a) after the definition of “child tax credit” insert—

““child who cannot share a bedroom” means a child—

(a) who is entitled to the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act; and

(b) who the relevant authority is satisfied is, by virtue of his or her disability, not reasonably able to share a bedroom with another child;”;

(b) after the definition of “maximum rent (LHA)” insert—

““member of the armed forces away on operations” means a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006(c)) who is absent, while on operations, from the dwelling usually occupied as their home;”;

(c) after the definition of “qualifying income-related benefit” insert—

““qualifying parent or carer” means a person who has a bedroom in the dwelling they occupy as their home additional to those used by the persons who occupy the dwelling as their home and who—

(a) has a child or qualifying young person placed with them as mentioned in regulation 19(3) who by virtue of that provision is not treated as occupying their dwelling; or

(a) Head (f) was added by regulation 2(8) of S.R. 2011 No. 51

(b) The definition of “maximum rent (LHA)” was inserted by regulation 2(2)(f) of S.R. 2008 No. 102 and the definition of “qualifying income-related benefit” was inserted by regulation 3(2)(c) of S.R. 2008 No. 285 and amended by regulation 4(2)(a)(ix) of S.R. 2008 No. 378

(c) 2006 c. 52

- (b) has been approved as a foster parent under regulation 3 of the Foster Placement (Children) Regulations (Northern Ireland) 1996^(a) but does not have a child or qualifying young person placed with them and has not had a child or qualifying young person placed with them for a period which does not exceed 52 weeks;”.
- (3) In regulation 14D^(b) (determination of a maximum rent (LHA))—
- (a) in paragraph (2)(c)^(c) for “paragraph (3)” substitute “paragraphs (3) to (3B)”;
- (b) in paragraph (3)^(d)
- (i) after sub-paragraph (b) insert—
- “(ba) a child who cannot share a bedroom provided that there is a bedroom in the dwelling occupied as the home that is additional to those to which the claimant would be entitled if the child were able to share a bedroom;”;
- (ii) after sub-paragraph (e) omit “and one additional bedroom in any case where the claimant or the claimant’s partner is a person who requires overnight care (or in any case where both of them are).”;
- (c) after paragraph (3) add—
- “(3A) The claimant is entitled to one additional bedroom in any case where—
- (a) the claimant or the claimant’s partner is (or each of them is) a person who requires overnight care; or
- (b) the claimant or the claimant’s partner is (or each of them is) a qualifying parent or carer.
- (3B) The claimant is entitled to two additional bedrooms where paragraph (3A)(a) and (b) both apply.”;
- (d) in paragraph (10) for the definition of “occupiers” substitute—
- ““occupiers” means—
- (a) the persons whom the relevant authority is satisfied occupy as their home the dwelling to which the claim or award relates except for any joint tenant who is not a member of the claimant’s household; and
- (b) any member of the armed forces away on operations who—
- (i) is the son, daughter, step-son or step-daughter of the claimant or the claimant’s partner;
- (ii) was the claimant’s non-dependant before they became a member of the armed forces away on operations; and
- (iii) intends to resume occupying the dwelling as their home when they cease to be a member of the armed forces away on operations;”.
- (4) In regulation 53^(e) (non-dependant deductions)—
- (a) at the end of paragraph (7)(e) omit “or”;
- (b) after paragraph (7)(f) add—
- “; or
- (g) he is not residing with the claimant because he is a member of the armed forces away on operations.”.
- (5) In Part IV of Schedule 2 (size criteria)—
- (a) in paragraph 10 after sub-paragraph (b) insert—

(a) S.R. 1996 No. 467

(b) Regulations 14 to 14F were substituted for regulation 14 by regulation 2(7) of S.R. 2008 No. 101

(c) Paragraph (2)(c) was amended by regulation 3(5)(a) of S.R. 2011 No. 51

(d) Paragraph (3) was amended by regulation 3(5)(b) of S.R. 2011 No. 51

(e) Paragraph (7) was amended by regulation 7(3)(a) of S.R. 2008 No. 428

“(ba) a child who cannot share a bedroom provided that there is a bedroom in the dwelling occupied as the home that is additional to those to which the claimant would be entitled if the child were able to share a bedroom;” and

(b) for paragraph 10A(a) substitute—

“**10A.** One additional bedroom is allowed where on the application for the determination—

- (a) the tenant or tenant’s partner is (or both of them are) stated as being a person who requires overnight care; or
- (b) the tenant or tenant’s partner is (or both of them are) stated as being a qualifying parent or carer.

10B. Two additional bedrooms are allowed where sub-paragraphs (a) and (b) of paragraph 10A both apply.”.

(6) In paragraph 2 of Schedule 3 (excluded tenancies)—

(a) after sub-paragraph (3)(f)(b) add—

- “(g) the claimant or the claimant’s partner becomes, or ceases to be, a qualifying parent or carer where that affects the size criteria, as set out in Part IV of Schedule 2, applicable in the claimant’s case; or
- (h) an occupier becomes or ceases to be a child who cannot share a bedroom where that affects the size criteria, as set out in Part IV of Schedule 2, applicable in the claimant’s case.”;

(b) after sub-paragraph (3) add—

“(4) For the purposes of sub-paragraph (3)(d)(iii) it does not amount to a change in the composition of the household where a son, daughter, step-son or step-daughter of the claimant or the claimant’s partner who is the claimant’s non-dependant ceases to occupy the dwelling as their home because they become a member of the armed forces away on operations, or subsequently resumes occupying the dwelling as their home on ceasing to be a member of the armed forces away on operations.”.

Amendment of the Housing Benefit Regulations relating to the determination of the maximum rent (social sector)

5.—(1) The Housing Benefit Regulations are amended in accordance with paragraphs (2) to (8).

(2) In regulation 2(1)(c) (interpretation) in the definition of “eligible rent”, in paragraph (a) after “regulation 13A” insert “, 13AA”.

(3) In regulation 11 (eligible housing costs) after paragraph (1)(b)(i)(d) insert—

“(ia) regulations 13AA, A14 and B14;”.

(4) In regulation 13A(e) (eligible rent) for paragraph (1) substitute—

“(1) The amount of a person’s eligible rent shall be determined in accordance with the provisions of this regulation except where any of the following provisions apply—

- (a) regulation 13AA;
- (b) regulation 13B;
- (c) regulation 13C; or
- (d) paragraph 4 of Schedule 3 to the Consequential Provisions Regulations.”.

(a) Paragraph 10A of Schedule 2 was inserted by S.R. 2011 No. 51
(b) Head (f) was added by regulation 3(8) of S.R. 2011 No. 51
(c) The definition of “eligible rent” was substituted by regulation 2(2)(c) of S.R. 2008 No. 101
(d) Sub-paragraph (b) was substituted by regulation 2(4)(a) of S.R. 2008 No. 101
(e) Regulations 13A to 13C were inserted by regulation 2(6) of S.R. 2008 No. 101

(5) After regulation 13A insert—

“Eligible rent and maximum rent (social sector)

13AA.—(1) This regulation applies where a maximum rent (social sector) has been, or is to be, determined in accordance with regulation A14.

(2) Except where paragraph (3) or (6) applies, the amount of a person’s eligible rent is the maximum rent (social sector).

(3) Where the claimant occupies a dwelling which is the same as that occupied by the claimant at the date of death of a linked person, the eligible rent is—

- (a) the eligible rent which applied on the day before the death occurred; or
- (b) in a case where no eligible rent applied on that day, an eligible rent determined in accordance with regulation 13A(2),

where that eligible rent is more than the eligible rent determined in accordance with paragraph (2).

(4) For the purpose of paragraph (3), a claimant is treated as occupying the dwelling if paragraph (13) of regulation 7 is satisfied and for that purpose paragraph (13) shall have effect as if sub-paragraph (b) of that paragraph were omitted.

(5) Where a person’s eligible rent has been determined in accordance with paragraph (3), it shall apply until the first of the following events occurs—

- (a) the period of 12 months from the date of death has expired;
- (b) the determination of an eligible rent in accordance with paragraph (3) in relation to a subsequent death;
- (c) there is a change of circumstances and the relevant authority determines a new eligible rent in accordance with paragraph (2) which is equal to or more than the eligible rent determined in accordance with paragraph (3);
- (d) there is a change of dwelling; or
- (e) the determination of an eligible rent under regulation 13A.

(6) Where the relevant authority is satisfied that the claimant or a linked person was able to meet the financial commitments for the dwelling when they were entered into, the eligible rent is an eligible rent determined in accordance with regulation 13A(2) where that eligible rent is more than the eligible rent determined in accordance with paragraph (2).

(7) Paragraph (6) shall not apply where the claimant or the claimant’s partner was previously entitled to benefit in respect of an award of housing benefit which fell wholly or partly less than 52 weeks before the commencement of the claimant’s current award of housing benefit.

(8) Where a person’s eligible rent has been determined in accordance with paragraph (6), it shall apply until the first of the following events occurs—

- (a) the first 13 weeks of the claimant’s award of housing benefit have expired;
- (b) the determination of an eligible rent in accordance with paragraph (3);
- (c) there is a change of circumstances and the relevant authority determines a new eligible rent in accordance with paragraph (2) which is equal to or more than the eligible rent determined in accordance with paragraph (6);
- (d) there is a change of dwelling; or
- (e) the determination of an eligible rent under regulation 13A.”.

(6) In regulation 13C, in paragraph (7)(a)(iv) and (b)(iv) after “regulation 14” insert “, a maximum rent (social sector) by virtue of regulation A14”.

(7) After regulation 13D (transitional protection – reduction in LHA) insert—

“When a maximum rent (social sector) is to be determined

A14.—(1) Subject to paragraph (2), the relevant authority must determine a maximum rent (social sector) in accordance with regulation B14 where the relevant authority has not determined, and is not required to determine—

- (a) a maximum rent in accordance with regulation 14;
- (b) a maximum rent (LHA) by virtue of regulation 14C; or
- (c) an eligible rent in a case where paragraph 4 of Schedule 3 to the Consequential Provisions Regulations applies.

(2) This regulation does not apply—

- (a) in a rent allowance case where the tenancy is an excluded tenancy of a type mentioned in paragraphs 4 or 5 of Schedule 3 and the landlord is not a registered housing association;
- (b) in respect of equity-sharing lease tenancies;
- (c) in respect of mooring charges for houseboats and payments in respect of the site on which a caravan or mobile home stands;
- (d) where the claimant or the claimant’s partner has attained the qualifying age for state pension credit, or where both have attained that age; or
- (e) where the dwelling is temporary accommodation.

(3) In this regulation “temporary accommodation” means accommodation of a kind listed in paragraph (4) which the relevant authority makes available to the claimant, or which a registered housing association makes available to the claimant in pursuance of arrangements made with it by the authority—

- (a) to discharge any of the authority’s functions under Part II of the Housing (Northern Ireland) Order 1988(a); or
- (b) to prevent the claimant being or becoming homeless within the meaning of Part II of the Housing (Northern Ireland) Order 1988.

(4) The accommodation referred to in paragraph (3) is—

- (a) accommodation—
 - (i) provided for a charge, where that charge includes the provision of that accommodation and some cooked or prepared meals which are also cooked or prepared, and consumed, in that accommodation or associated premises; or
 - (ii) provided in a hotel, guest house, lodging house or similar establishment, but does not include accommodation which is provided in a care home, an independent hospital or a hostel;
- (b) accommodation which the authority or registered housing association holds on a lease granted for a term not exceeding 10 years;
- (c) accommodation which the authority or registered housing association has a right to use under an agreement other than a lease with a third party.

Determination of a maximum rent (social sector)

B14.—(1) The maximum rent (social sector) is determined in accordance with paragraphs (2) to (9).

(2) The relevant authority must determine a limited rent by—

- (a) determining the amount that the claimant’s eligible rent would be in accordance with regulation 13A(2) without applying regulations 13A(4) and (7);

(a) S.I. 1988 No. 1990 (N.I. 23)

- (b) where the number of bedrooms in the dwelling exceeds the number of bedrooms to which the claimant is entitled in accordance with paragraphs (5) to (7) reducing that amount by the appropriate percentage set out in paragraph (3); and
 - (c) where more than one person is liable to make payments in respect of the dwelling, apportioning the amount determined in accordance with sub-paragraphs (a) and (b) between each such person having regard to all the circumstances, in particular, the number of such persons and the proportion of rent paid by each person.
- (3) The appropriate percentage is—
- (a) 14% where the number of bedrooms in the dwelling exceeds by one the number of bedrooms to which the claimant is entitled; and
 - (b) 25% where the number of bedrooms in the dwelling exceeds by two or more the number of bedrooms to which the claimant is entitled.
- (4) Where it appears to the relevant authority that in the particular circumstances of any case the limited rent is greater than it is reasonable to meet by way of housing benefit, the maximum rent (social sector) shall be such lesser sum as appears to that authority to be an appropriate rent in that particular case.
- (5) The claimant is entitled to one bedroom for each of the following categories of person whom the relevant authority is satisfied occupies the claimant’s dwelling as their home (and each person shall come within the first category only which is applicable)—
- (a) a couple (within the meaning of Part VII of the Act);
 - (b) a person who is not a child;
 - (c) a child who cannot share a bedroom;
 - (d) two children of the same sex;
 - (e) two children who are less than 10 years old;
 - (f) a child.
- (6) The claimant is entitled to one additional bedroom in any case where—
- (a) a relevant person is a person who requires overnight care; or
 - (b) a relevant person is a qualifying parent or carer.
- (7) Where—
- (a) more than one sub-paragraph of paragraph (6) applies the claimant is entitled to an additional bedroom for each sub-paragraph that applies;
 - (b) more than one person falls within a sub-paragraph of paragraph (6) the claimant is entitled to an additional bedroom for each person falling within that sub-paragraph, except that where a person and that person’s partner both fall within the same sub-paragraph the claimant is entitled to only one additional bedroom in respect of that person and that person’s partner.
- (8) For the purposes of determining the number of occupiers of the dwelling under paragraph (5), the relevant authority must include any member of the armed forces away on operations who—
- (a) is the son, daughter, step-son or step-daughter of the claimant or the claimant’s partner;
 - (b) was the claimant’s non-dependant before they became a member of the armed forces away on operations; and
 - (c) intends to resume occupying the dwelling as their home when they cease to be a member of the armed forces away on operations.
- (9) In this regulation “relevant person” means—
- (a) the claimant;
 - (b) the claimant’s partner;

- (c) a person (“P”) other than the claimant or the claimant’s partner who is jointly liable with the claimant or the claimant’s partner (or both) to make payments in respect of the dwelling occupied as the claimant’s home;
- (d) P’s partner.”.

(8) In Schedule 3 (excluded tenancies) in paragraph 3 omit sub-paragraph (a).

Amendment of the Housing Benefit (Consequential Provisions) Regulations relating to the determination of the maximum rent (social sector)

6. In paragraph 4 of Schedule 3 (transitional and savings provisions) to the Housing Benefit (Consequential Provisions) Regulations (Northern Ireland) 2006(a)—

- (a) in sub-paragraph (1A)(b)—
 - (i) at the end of head (a) omit “or”;
 - (ii) after head (a) insert—
 - “(aa) a determination of eligible rent in a case where a person’s landlord is a registered housing association within the meaning of regulation 2 of the Housing Benefit Regulations or any case where housing benefit is payable in the form of a rent rebate unless—
 - (i) the claimant or the claimant’s partner has attained the qualifying age for state pension credit, or both have attained that age;
 - (ii) a relevant authority has, on or before 2nd January 2017, reduced that person’s eligible rent in accordance with regulation 14(3) of the Housing Benefit Regulations as set out in paragraph 5 of this Schedule;
 - (iii) a relevant authority has, on or before 2nd January 2017, made a determination that the person’s dwelling is larger than is reasonably required or that the person’s rent is unreasonably high in accordance with regulation 14(3) of the Housing Benefit Regulations as set out in paragraph 5 of this Schedule, but has not, in accordance with paragraph (4), (5) or (7) of that regulation, reduced that person’s eligible rent; or”;
- (b) in sub-paragraph (9) in head (a) of the definition of “eligible rent”(c) after “regulations 13A (eligible rent),” insert “13AA (eligible rent and maximum rent (social sector)),”.

Revocation

7. The Housing Benefit (Amendment) Regulations (Northern Ireland) 2016(d) are revoked.

Signed by authority of the Secretary of State for Work and Pensions

12th September 2016

Freud
Minister of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit Regulations (Northern Ireland) 2006 (“the Housing Benefit Regulations”), Housing Benefit (Persons who have attained the qualifying age for state

(a) S.R. 2006 No. 407; relevant amending Regulations are S.R. 2008 No.103
 (b) Sub-paragraph(1A) was inserted by regulation 6(a)(i) of S.R. 2008 No. 103
 (c) The definition of “eligible rent” was inserted by regulation 6(a)(ii)(aa) of S.R. 2008 No. 103
 (d) S.R. 2016 No. 258

pension credit) Regulations (Northern Ireland) 2006 (“the Housing Benefit (State Pension Credit) Regulations”) and the Housing Benefit (Consequential Provisions) Regulations (Northern Ireland) 2006.

The Regulations introduce a new method of calculating the eligible rent when determining the appropriate maximum housing benefit of a working age claimant in the social rented sector whose housing benefit is determined under the Housing Benefit Regulations, by making an appropriate deduction from housing benefit where a claimant occupies a dwelling that has more bedrooms than they require.

Regulation 3 makes provision for additional bedrooms for claimants in both private and social sector housing who are parents of members of the armed forces who are away on operations, are a qualifying parent or carer or who have a child who cannot share a bedroom.

Regulation 4 makes similar provision for claimants who have attained the qualifying age for state pension credit by amending the Housing Benefit (State Pension Credit) Regulations.

Regulation 5 inserts new regulations 13AA, A14 and B14 into the Housing Benefit Regulations and makes consequential amendments.

Regulation 13AA provides that where a maximum rent (social sector) is to be calculated in accordance with regulation B14 by virtue of regulation A14, the eligible rent will be the maximum rent (social sector). This reduction in the eligible rent (the maximum rent (social sector)) reflects the appropriate sized accommodation for the claimant and their household.

It also provides for a protected eligible rent based upon the actual rent for up to 13 weeks where the claimant has not previously been awarded housing benefit in the past 52 weeks and was able to meet their rent obligation when they entered into it and for a protected eligible rent for up to 12 months where certain members of the claimant’s household have died. This is based either upon the actual rent or, in the case of an existing award of housing benefit, the previous eligible rent.

Regulation A14 makes provision for the cases where a maximum rent (social sector) must be determined by the relevant authority. It includes exceptions for certain tenancies that are contained within Schedule 3 to the Housing Benefit Regulations, equity-sharing lease tenancies, mooring charges for houseboats and site charges for caravans and mobile homes, claimants who have reached the qualifying age for state pension credit, or whose partner has reached that age, and claimants placed in temporary accommodation by a relevant authority.

Regulation B14 makes provision for the calculation of the maximum rent (social sector) for working age claimants. The relevant authority must determine how many bedrooms are necessary for the claimant’s household, in accordance with the criteria set out in paragraph (5), and how many bedrooms the claimant has. The relevant authority must then determine the claimant’s limited rent. If the claimant has one bedroom in excess of the number that is necessary, 14% of the limited rent is deducted to give the maximum rent (social sector). If the claimant has two or more bedrooms in excess of the number that is necessary, the deduction is 25%. It also makes provision for additional rooms when applying the size criteria to claimants in social sector housing who are parents of members of the armed forces who are away on operations, are a qualifying parent or carer or who have a child who cannot share a room.

The other paragraphs in regulation 5 contain consequential amendments.

Regulation 6 amends paragraph 4 of Schedule 3 to the Housing Benefit (Consequential Provisions) Regulations (Northern Ireland) 2006.

Since 1996, transitional protection in respect of the amount of housing benefit paid, has applied to claimants in certain types of supported accommodation and for certain existing housing benefit claimants and their families (namely those who had been in continuous receipt of housing benefit since at least 1st January 1996 and who continued to occupy the same dwelling (subject to certain exceptions)). This transitional protection was preserved when the Housing Benefit Regulations were introduced in 2006.

Regulation 6 provides that this transitional protection will not apply to those whose housing benefit is payable by way of a rent rebate or whose landlord is a registered housing association subject to exceptions, and that the new method of calculating eligible rent will be applied.

Regulation 7 revokes the Housing Benefit (Amendment) Regulations (Northern Ireland) 2016.

An assessment of the impact of this instrument has been carried out. Copies of the impact assessment may be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London, SW1 9NA. It is also available alongside this instrument and the Explanatory Memorandum on www.legislation.gov.uk.

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