

1984 No. 77

HOUSING; RATES

**The Housing Benefits (Amendment) Regulations
(Northern Ireland) 1984**

Made 12th March 1984
Coming into operation 1st April 1984

The Department of Health and Social Services for Northern Ireland and the Department of the Environment for Northern Ireland acting jointly, in exercise of the powers conferred on them by Article 3(1) of the Housing Benefits (Northern Ireland) Order 1983(a), and the Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by Article 3(2) of that Order, in each case with the consent of the Department of Finance and Personnel for Northern Ireland, and in exercise of all other powers enabling them in that behalf, hereby make the following regulations which satisfy the requirements of Article 7(7) of the said Order of 1983 and which accordingly are not subject to the requirement of section 10(1) of the Social Security Act 1980(b) for prior reference to the Social Security Advisory Committee:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Housing Benefits (Amendment) Regulations (Northern Ireland) 1984 and shall come into operation on 1st April 1984.

(2) In these regulations “the principal regulations” means the Housing Benefits Regulations (Northern Ireland) 1983(c).

Amendment of regulation 2 of the principal regulations

2.—(1) Regulation 2 of the principal regulations (interpretation) shall be amended in accordance with the following paragraphs.

(2) In paragraph (1)—

(a) after the definition of “beneficiary” there shall be inserted the following definition—

“ ‘benefit day’ is to be construed in accordance with regulation 25A(1);”;

(b) in the definition of “boarder on supplementary benefit” after “regulation 9(10)” there shall be added “and (11)”;

(c) in the definition of “fuel” after “electricity” there shall be added “and a reference to a charge for, or an amount payable for, fuel includes a reference to a charge for, or, as the case may be, an amount payable for, the facility of providing it”;

(d) in the definition of “qualifying supplementary benefit” for “for the purposes of the Requirements Regulations is responsible for housing expenditure” there shall be substituted, “under regulation 14(3), (4), (4A), (5) and (6) of the Requirements Regulations would be treated as responsible for, and be allowed an amount in respect of, housing benefit expenditure (as defined in regulation 2(1) of those regulations) if such expenditure were an item to which housing requirements related for the purposes of those regulations”;

(a) S.I. 1983/1121 (N.I. 14)

(b) 1980 c. 30

(c) S.R. 1983 No. 292

(e) after the definition of “rent” there shall be inserted the following definition—

“ ‘rent-free period’ means a period for which no rent is payable;”;

(3) In paragraph (4)(a) after “the Executive”, where it last appears, there shall be inserted “or to the Department of the Environment”.

(4) In paragraph (5), for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) any structure or space which is used for the purposes of an eligible person’s dwelling where either—

(i) he acquired simultaneously the right to occupy the structure or space and the right to occupy the dwelling, and, in the case of a person liable to make payments of rent for his dwelling, he could not have rented that dwelling without the structure or space, or

(ii) he has made or is making all reasonable efforts to terminate his liability to make payments in respect of the structure or space;”.

(5) For paragraph (6) there shall be substituted the following paragraph—

“(6) References in these regulations to ‘weekly income’, ‘weekly eligible rates’ and ‘weekly eligible rent’ are to the weekly amounts which represent, respectively, income, eligible rates and eligible rent as converted where appropriate in accordance with regulation 12A.”.

Amendment of regulation 5 of the principal regulations

3. In regulation 5 of the principal regulations (eligibility for rate rebate) for paragraph (2) there shall be substituted the following paragraph—

“(2) Notwithstanding paragraph (1), but subject to regulation 8(1), a boarder on supplementary benefit is not eligible for a rate rebate in respect of a dwelling at which he boards.”.

Amendment of regulation 6 of the principal regulations

4. In regulation 6 of the principal regulations (eligibility for rent rebate) for paragraph (3) there shall be substituted the following paragraph—

“(3) Notwithstanding paragraph (1), but subject to regulation 8(1), a boarder on supplementary benefit is not eligible for a rent rebate in respect of a dwelling at which he boards.”.

Amendment of regulation 7 of the principal regulations

5. In regulation 7 of the principal regulations (eligibility for rent allowance) for paragraph (3) there shall be substituted the following paragraph—

“(3) Notwithstanding paragraph (1), but subject to regulation 8(1), a boarder on supplementary benefit is not eligible for a rent allowance in respect of a dwelling at which he boards.”.

Amendment of regulation 8 of the principal regulations

6. In regulation 8 of the principal regulations (eligibility for boarders on supplementary benefit) paragraphs (2) and (4) shall be omitted.

Amendment of regulation 9 of the principal regulations

7. In regulation 9 of the principal regulations (persons on supplementary benefit) for paragraph (7) there shall be substituted the following paragraph—

“(7) In paragraph (1) ‘ineligible person’ means, in respect of a dwelling, a person who—

- (a) in relation to a rate rebate for that dwelling would not be eligible under regulation 5 by virtue of regulation 5(2);
- (b) in relation to a rent rebate for that dwelling would not be eligible under regulation 6 by virtue of regulation 6(2) or (3);
- (c) in relation to a rent allowance for that dwelling would not be eligible under regulation 7 by virtue of regulation 7(2) or (3);
- (d) in relation to any housing benefit for that dwelling is a person to whom regulation 8(1) or (3) applies.”.

Insertion of regulation 12A in the principal regulations

8. After regulation 12 of the principal regulations there shall be inserted the following regulation—

“Conversion to weekly amounts

12A.—(1) Any amount which is payable or calculated otherwise than weekly or which, though normally payable weekly, is not payable in every week of the year shall be converted for the purposes of these regulations into the weekly sum which represents it, and in a case to which paragraph (2) or (3) applies shall be converted in accordance with such of those paragraphs as is applicable.

(2) For the purposes of calculating weekly eligible rent where there is a rent-free period in a year the aggregate amount of rent payable in a year shall be divided by 52 or 53, whichever the Executive considers reasonable in the circumstances.

(3) For the purposes of calculating weekly eligible rates where there is a rent-free period in a year and payments by way of rates are made together with rent, paragraph (2) shall apply to the payments by way of rates as it applies to the rent.”.

Amendment of regulation 15 of the principal regulations

9. In regulation 15 of the principal regulations (eligible rates)—

- (a) in paragraph (2) the words “during the benefit period” and “in relation to that period” shall be omitted;
- (b) in paragraph (3) the words “during the benefit period” shall be omitted; and
- (c) paragraph (7) (payments outside the benefit period) shall be omitted.

Amendment of regulation 16 of the principal regulations

10. In regulation 16 of the principal regulations (eligible rent)—

- (a) in paragraph (2) the words “during the benefit period” shall be omitted;
- (b) after paragraph (4) there shall be inserted the following paragraph—

“(4A) Where a single payment has been made to a person or his partner under regulation 21A of the Supplementary Benefit (Single Payments) Regulations (Northern Ireland) 1981(a) (rent in advance) the eligible rent for the dwelling in respect of which it was made shall be abated by the amount of the single payment.”;
- (c) in paragraph (5) for “the eligible rent” there shall be substituted “and the rent recoverable from a person is limited to the rent so registered, his eligible rent”; and
- (d) paragraph (8) (payments outside the benefit period) shall be omitted.

Amendment of regulation 17 of the principal regulations

11.—(1) Regulation 17 of the principal regulations (unsuitable accommodation) shall be amended in accordance with the following paragraphs.

(2) In paragraph (1)—

(a) in sub-paragraph (b) for “because it is located in an unnecessarily expensive area” there shall be substituted “by comparison with the rates payable for suitable alternative accommodation”; and

(b) in sub-paragraph (c) for “similar dwellings occupied under comparable terms” there shall be substituted “suitable alternative accommodation.”

(3) After paragraph (3) there shall be added the following paragraph—

“(4) In relation to a dwelling occupied with security of tenure, other accommodation shall not be treated as suitable alternative accommodation for the purposes of this regulation unless that accommodation will be occupied on terms which will afford security of tenure reasonably equivalent to that under which that dwelling is occupied.”.

Amendment of regulation 18 of the principal regulations

12.—(1) Regulation 18 of the principal regulations (deductions for non-dependants) shall be amended in accordance with the following paragraphs.

(2) In paragraph (1)(b) and (2)(b) for “18” there shall be substituted “21”.

(3) In paragraph (4) for “made only in respect of one eligible person, being such one as the appropriate authority may determine” there shall be substituted “apportioned having regard to all the circumstances, in particular the number of eligible persons and the proportion of rates or, as the case may be, rent paid by each such person”.

(4) After paragraph (6) there shall be inserted the following paragraphs—

“(6A) Where, in a case other than a certificated case, the eligible person or his partner is a handicapped person and a non-dependant of the eligible person provides assistance with domestic tasks which neither the eligible person nor his partner is able to perform, no deduction shall be made in respect of that non-dependant unless that non-dependant is a parent, son, daughter, step-son, step-daughter, brother or sister of the eligible person or his partner.

(6B) No deduction shall be made in respect of a non-dependant who is in receipt of a training allowance paid by the Department of Economic Development in connection with a Youth Training Programme established under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(a).”

(5) In paragraph (8) for “18” there shall be substituted “21”.

(6) In paragraph (9) after sub-paragraph (b) there shall be inserted the following sub-paragraph—

“(c) ‘handicapped person’ in paragraph (6A) has the meaning assigned to it by regulation 13(4).”.

Amendment of regulation 19 of the principal regulations

13. In regulation 19 of the principal regulations (calculation of benefit)—

(a) in paragraph (1) before “amount” there shall be inserted “weekly” and the words “for each week” shall be omitted;

(b) in paragraph (4) before “amount” there shall be inserted “weekly” and the words “each week” shall be omitted;

- (c) in paragraphs (5) and (6) before “amount”, where it first occurs in each case, there shall be inserted “weekly” and the words “each week” shall be omitted; and
- (d) after paragraph (6) there shall be inserted the following paragraph—
 “(6A) Where a person has a rent-free period—
 (a) the amount of rent rebate or rent allowance to which he is entitled; and
 (b) if sums by way of rates are payable together with his rent, the amount of rate rebate to which he is entitled,
 is the amount ascertained under the preceding paragraphs multiplied by 52 or by 53 (being that by which the rent is divided under regulation 12A(2)) and divided by the number of weeks in a year for which rent is payable.”.

Amendment of regulation 21 of the principal regulations

14. In regulation 21 of the principal regulations (persons in receipt of supplementary benefit)—

- (a) in paragraph (1)(a)—
 (i) before “amount”, where it first occurs, there shall be inserted “weekly”,
 (ii) the words “each week” shall be omitted, and
 (iii) for “paragraphs (2) to (4)” there shall be substituted “paragraphs (1A) to (3)”;
- (b) after paragraph (1) there shall be inserted the following paragraph—
 “(1A) Where a person has a rent-free period—
 (a) the amount of rent rebate or rent allowance to which he is entitled; and
 (b) if sums by way of rates are payable together with his rent, the amount of rate rebate to which he is entitled,
 is the amount assessed under paragraph (1) multiplied by 52 or by 53 (being that by which the rent is divided under regulation 12A(2)) and divided by the number of weeks in a year for which rent is payable.”; and
- (c) paragraph (4) (single payments of supplementary benefit for rent in advance) and paragraph (5) (benefit period of less than seven days) shall be omitted.

Amendment of regulation 24 of the principal regulations

15. In regulation 24 of the principal regulations (beginning of benefit period) after paragraph (3) there shall be inserted the following paragraph—

- “(3A) Where in a certificated case the eligible person was entitled to supplementary benefit for a period including the day before the date referred to in paragraph (1)(b), the appropriate authority may allow his benefit period to begin on a date which is six days or less earlier than that referred to in paragraph (1)(b).”.

Insertion of regulation 25A in the principal regulations

16. After regulation 25 of the principal regulations there shall be inserted the following regulation—

“Days of entitlement to housing benefits

25A.—(1) The appropriate authority shall determine the day of the week (in these regulations referred to as the ‘benefit day’) upon which an eligible person’s entitlement to a housing benefit shall accrue in a benefit period, which may be any such day that it considers appropriate in the circumstances.

(2) Subject to paragraphs (3) and (4) a person shall be entitled to a weekly amount of a housing benefit on the first benefit day in a benefit period and to a weekly amount of that benefit on each subsequent benefit day within that period.

(3) There shall be no entitlement to any amount of rent rebate or rent allowance on a benefit day which falls within a rent-free period.

(4) In a case where sums by way of rates are payable together with rent, there shall be no entitlement to any amount of rate rebate on a benefit day which falls within a rent-free period."

Amendment of regulation 27 of the principal regulations

17. In regulation 27(1) of the principal regulations (procedure following a claim)—

- (a) in sub-paragraph (a) after "entitled," there shall be inserted "his benefit day"; and
- (b) in sub-paragraph (b) after "eligible rent," there shall be inserted "determine his benefit day".

Amendment of regulations 30 and 31 of the principal regulations

18. In regulation 30 (changes leading to lesser amounts of benefit) and in regulation 31 (changes leading to greater amounts of benefit) in paragraphs (1)(b) and (2)(b) of each of those regulations for "week in which" there shall be substituted in each case "benefit day within the period beginning with the sixth day before, and ending with the sixth day after,".

Insertion of regulation 32A in, and amendment of regulation 33 of, the principal regulations

19.—(1) After regulation 32 of the principal regulations there shall be inserted the following regulation—

"Changes in regulations

32A. If an amendment is made to these regulations such as to affect the amount of any housing benefit to which a beneficiary is entitled, the appropriate authority shall make such alteration to the amount of that benefit as is necessary as a consequence of that amendment and it shall make any such alteration with effect from the benefit day first occurring on or after the date on which that amendment comes into operation."

(2) In regulation 33 of the principal regulations (disregard of small amounts) for "regulations 30, 31 or 32" there shall be substituted "regulations 30, 31, 32 or 32A".

Amendment of regulation 39 of the principal regulations

20.—(1) Regulation 39 of the principal regulations (persons to whom benefit may or shall be paid) shall be amended in accordance with the following paragraphs.

(2) In paragraph (1) for "paragraph (2)" there shall be substituted "paragraphs (2) and (3)".

(3) After paragraph (2) there shall be added the following paragraph—

"(3) Where a person is for the time being appointed—

- (a) pursuant to regulations made under section 81(4) of the Social Security (Northern Ireland) Act 1975(a) to receive sums payable under that Act to another person; or

(a) 1975 c. 15; see regulation 28 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977 (S.R. 1977 No. 351)

- (b) pursuant to regulations made under Article 19(2) of the Supplementary Benefits (Northern Ireland) Order 1977(a) to receive sums payable under that Order to another person,

the appropriate authority may pay any housing benefit to which that other person is entitled to the person so appointed if the person so appointed so requests.”.

Substitution of regulation 41 of the principal regulations

21. For regulation 41 of the principal regulations (restriction on recovery) there shall be substituted the following regulation—

“Restriction on recovery

41.—(1) Subject to paragraph (2), an overpayment shall be recoverable only if it was made as a result of either—

- (a) a misrepresentation (whether fraudulent or otherwise) made by any person as to a material fact; or
 (b) a failure by any person to disclose a material fact.

(2) Notwithstanding paragraph (1) an overpayment shall be recoverable to the extent that it arises because—

- (a) an amount is paid to a person before the benefit day on which entitlement to that amount accrues; and
 (b) (i) his benefit period ends before that benefit day, or
 (ii) there is a change of circumstances between the date on which that amount is paid and that benefit day such as to reduce his entitlement on that day.”.

Amendment of regulation 42 of the principal regulations

22. In regulation 42(1) of the principal regulations (recovery by authorities)—

- (a) after “it” there shall be inserted “where the overpayment is recoverable by virtue of paragraph (2) of regulation 41 or”;
 (b) in sub-paragraphs (a) and (b) the words “an advance payment of housing benefit or” shall be omitted.

Amendment of regulation 47 of the principal regulations

23.—(1) Regulation 47 of the principal regulations (further review of determinations) shall be amended in accordance with the following paragraphs.

(2) In paragraph (3) the words “appointed by the Department of the Environment and” shall be omitted.

(3) After paragraph (3) there shall be added the following paragraph—

“(4) The Executive may provide a review board with such staff and such accommodation, services and other facilities as appear to the Executive to be necessary or expedient for the proper performance of the functions of the review board.”.

Amendment of regulation 48 of the principal regulations

24. In regulation 48 of the principal regulations (procedure on further review) for paragraph (2) there shall be substituted the following paragraph—

“(2) Any matter may be proceeded with in the absence of one member of the review board provided that—

(a) S.I. 1977/2156 (N.I. 27), as amended by the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)), Article 7 and Schedule 2; see regulation 26 of the Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 1981 (S.R. 1981 No. 368).

- (a) there are at least two members present;
- (b) the interested person consents; and
- (c) one member shall act as chairman."

Insertion of regulation 50A in the principal regulations

25. After regulation 50 of the principal regulations there shall be inserted the following regulation—

"Revision of determinations

50A.—(1) An authority may revise a determination which it has made—

- (a) if it is satisfied that it was made in ignorance of, or was based on a mistake as to, a material fact;
 - (b) except where a decision has been made by a review board in relation to the determination, if it is satisfied that it was based on a mistake as to the law.
- (2) Subject to paragraph (3), where a determination is revised the determination as revised shall have effect as though it were made on the date of the original determination.

(3) No revision of a determination shall increase the amount of a housing benefit to which a person is entitled in respect of a period falling more than 52 weeks before the actual date on which the determination is revised.

(4) Regulations 45 to 50 shall apply to the revision of a determination as they apply to a determination, but shall not apply to a decision not to revise a determination."

Amendment of Schedule 2 to the principal regulations

26.—(1) Schedule 2 to the principal regulations (amounts disregarded when ascertaining weekly income for any housing benefit) shall be amended in accordance with the following paragraphs.

(2) After paragraph 7 there shall be inserted the following paragraph—

"7A. Any mobility supplement under Article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(a) (including such a supplement under that Order by virtue of any other Scheme or Order) or under Article 25A of the Personal Injuries (Civilians) Scheme 1983(b)."

(3) In paragraph 13 (certain pensions and allowances) for sub-paragraph (g) there shall be substituted the following sub-paragraphs—

- "(g) a pension paid for disablement in respect of a person's service as a policeman or fireman;
- (gg) a widow's special pension under—
 - (i) regulation 25 or 26 of the Royal Ulster Constabulary Pensions Regulations 1973(c), or
 - (ii) Article 19 or 20 of the Firemen's Pension Scheme Order (Northern Ireland) 1973(d);"

(4) In paragraph 18 (parental contributions assessed for the purposes of educational awards) for "1977" there shall be substituted "1972".

(5) In paragraph 19(b) (other contributions towards maintenance of certain students) for "regulation 7 of the Students Award Regulations (Northern Ireland)

(a) S.I. 1983/883, amended by S.I. 1983/1116 and 1521

(b) S.I. 1983/686, amended by S.I. 1983/1164 and 1540

(c) S.R. 1973 No. 317

(d) S.R. 1973 No. 393, amended by S.R. 1979 No. 387

1977" there shall be substituted "Article 39(3) of the Education and Libraries (Northern Ireland) Order 1972".

Amendment of Schedule 3 to the principal regulations

27. In Schedule 3 to the principal regulations (deductions for charges for fuel, services and rent) for paragraph 5 there shall be substituted the following paragraph—

"5. Where the Executive considers that the heating for which a charge is included in the rent for a dwelling is not adequate for that dwelling, there shall be deducted for the charge such lesser amount than would otherwise be deducted under paragraph 3 or 4 as it considers reasonable in the circumstances; and in determining whether or not heating is adequate for the purposes of this paragraph, the Executive shall leave out of account any special need for heating which it considers arises from the personal circumstances of any person occupying the dwelling."

Substitution of Schedule 5 to the principal regulations

28. For Schedule 5 to the principal regulations (constitution of Review Boards) there shall be substituted the Schedule set out in the Schedule to these regulations.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 12th March 1984.

(L.S.)

C. Davie

Assistant Secretary

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 12th March 1984.

(L.S.)

J. M. Beckett

Assistant Secretary

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

Sealed with the Official Seal of the Department of Finance and Personnel for Northern Ireland on 12th March 1984.

(L.S.)

N. R. Cowling

Assistant Secretary

SCHEDULE

Regulation 27

Schedule 5 to the principal regulations as substituted by these Regulations

SCHEDULE 5

Regulation 47(3)

CONSTITUTION OF REVIEW BOARDS

1. A review board referred to in regulation 47(3), shall be constituted by the Executive from a panel of persons appointed by the Department of the Environment to act for such area as that Department thinks fit.

2. The panel appointed to act for an area shall be composed of persons appearing to the Department of the Environment to have knowledge or experience of the conditions in the area and to be representative of persons living or working in that area.

3. Before appointing persons to a panel that Department may take into consideration any recommendations from such organisation or persons as it considers appropriate.

4. The persons appointed to a panel shall hold office for such period as the Department of the Environment may direct, but that Department may at any time terminate the appointment of any such person.

5. A review board shall, subject to regulation 48(2), consist of a chairman and two other persons. The chairman shall be drawn from those persons on a panel referred to in paragraph 1 and designated to act as such by the Department of the Environment.

6. If practicable, at least one of the members of a review board hearing a case shall be the same sex as the interested person referred to in regulation 47(1).

7. The Executive may pay to members of a review board such allowances as the Department of the Environment, with the consent of the Department of Finance and Personnel, considers appropriate.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the Housing Benefits Regulations (Northern Ireland) 1983 ("the 1983 regulations") which contain the schemes for the granting of rate rebates, rent rebates and rent allowances (collectively called "housing benefits"). Changes of substance to the 1983 regulations made by these regulations are—

- (a) to provide that a boarder receiving supplementary benefit is ineligible for housing benefits only in respect of the dwelling at which he boards (regulations 3, 4, 5 and 6);
- (b) to make fresh provision for the conversion to weekly amounts of amounts payable otherwise than weekly (regulations 2(5) and 8);
- (c) to provide that deductions in respect of single payments of supplementary benefit for rent in advance, made when calculating a person's entitlement to rent rebate or allowance, may be made even though that person is no longer receiving supplementary benefit (regulation 10(b));
- (d) to provide that for the purposes of considering whether a person's rates are or rent is unreasonably high and should be treated as reduced for the purposes of housing benefits, the comparison is to be made with suitable alternative accommodation rather than, in the case of rates, by reason of the location of the dwelling and, in the case of rent, by comparison with similar dwellings occupied under comparable terms (regulation 11);
- (e) to alter the provisions for deducting amounts from a person's housing benefit where he has non-dependant persons living in his home—
 - (i) by raising the age limit below which no deduction is made in respect of a non-dependant receiving supplementary benefit from 18 to 21;
 - (ii) by providing for apportionment of the deduction in some cases;
 - (iii) by extending to claimants not receiving supplementary benefit provision for no deduction to be made for a non-dependant who is providing domestic assistance; and
 - (iv) by providing for no deduction to be made for a non-dependant receiving a youth training allowance, (regulation 12);
- (f) to enable housing benefits to be paid to certain claimants who were receiving supplementary benefit before becoming householders, for a period up to 6 days before they became householders (regulation 15);
- (g) to provide for entitlement to housing benefits to fall due on a particular day of the week (regulation 16);
- (h) to extend the scope of the exception from the requirement to pay certain housing benefit only to the person entitled, so as to allow payment direct to persons appointed to act for the person entitled for the purposes of social security legislation (regulation 20);
- (i) to enable the relevant authority to revise its determination in certain cases even if there has been no change of circumstances (regulation 25);
- (j) to provide for the disregard of war pensioner's mobility supplement when income is ascertained for the purposes of housing benefits (regulation 26(2));
- (k) to provide, in the calculation of rent rebate or allowance for those on supplementary benefit, that the lesser amount which is to be deducted from rent in respect of the heating charge shall be deducted where the heating paid for in the rent is not adequate for the dwelling, without regard to any special need of the occupiers for heating (regulation 27).

Other amendments are of a minor or clarificatory character or consequential upon those mentioned above.