

1984 No. 450

HOUSING; RATES

**The Housing Benefits (Amendment No. 4) Regulations
(Northern Ireland) 1984**

Made 28th December 1984

Coming into operation 2nd January 1985

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 3(2) of the Housing Benefits (Northern Ireland) Order 1983(a) and acting jointly with the Department of the Environment, in exercise of the powers conferred on them by Article 3(1) of that Order, in each case with the consent of the Department of Finance and Personnel, and in exercise of all other powers enabling them in that behalf, hereby make the following regulations which correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and which accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980(b) are not subject to the requirement of section 10(1) of that Act 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 No. 4) Regulations (Northern Ireland) 1984 and shall come into operation on 2nd January 1985.

(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. In regulation 2(1) of the principal regulations (interpretation) in the definition of “rent”, after sub-paragraph (c) there shall be inserted the following sub-paragraph—

“(cc) payments in respect of or in consequence of use and occupation of a dwelling.”.

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)—

- (a) 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; and
- (b) a person who is entitled to supplementary benefit but who is not treated under sub-paragraph (a) of regulation 14(3) of the Requirements Regulations as responsible for housing expenditure is not eligible for a rate rebate in respect of that housing expenditure.”.

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

(b) 1980 c. 30

(c) S.R. 1983 No. 292; the relevant amending regulations are S.R. 1984 Nos. 77 and 280

Amendment of regulation 7 of the principal regulations

4. 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)—

- (a) 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; and
- (b) a person who is entitled to supplementary benefit but who is not treated under sub-paragraph (a) of regulation 14(3) of the Requirements Regulations as responsible for housing expenditure is not eligible for a rent allowance in respect of that housing expenditure.”.

Amendment of regulation 11 of the principal regulations

5. In regulation 11 of the principal regulations (joint occupiers)—

(a) in paragraph (1) for “paragraph (2)” there shall be substituted “paragraphs (2) and (3)”;

(b) after paragraph (2) there shall be inserted the following paragraph—

“(3) If a joint occupier of his dwelling was, at any time during the period of eight weeks prior to the creation of the joint tenancy or other agreement giving rise to the joint liability to pay rent or, as the case may be, to make payments by way of rates, a non-dependant of one or more of the other joint occupiers of that dwelling, he shall not be eligible for housing benefit in respect of that dwelling unless the appropriate authority is satisfied that that joint tenancy or other agreement was not created to take advantage of the rate rebate scheme, the rent rebate scheme or the rent allowance scheme, as the case may be.”.

Amendment of regulation 18 of the principal regulations

6. In regulation 18 of the principal regulations (deductions for non-dependants) after paragraph (3) there shall be inserted the following paragraph—

“(3A) For the purposes of this regulation, where a person who is a joint occupier of his dwelling is not eligible for a housing benefit by virtue of regulation 11(3), he shall be treated as a non-dependant in respect of whom a deduction falls to be made in calculating any housing benefit payable to any of the other joint occupiers of that dwelling.”.

Substitution of regulation 22 of the principal regulations

7. For regulation 22 of the principal regulations (disentitlement to rent allowance and rate rebate) there shall be substituted the following regulation—

“Disentitlement to rent allowance and rate rebate

22.—(1) A person shall not be entitled to a rent allowance or, as the case may be, a rate rebate where it appears to the appropriate authority that the tenancy or other agreement to pay rent or, as the case may be, to make payments by way of rates was created to take advantage of the rent allowance scheme, or insofar as the tenancy or other agreement relates to payments by way of rates, the rate rebate scheme, so however that this provision shall not apply to a person who was, for any period within the eight weeks prior to the creation of the tenancy or other agreement to pay rent or, as the case may be, to make payments by way of rates, otherwise liable to pay rent in respect of the same dwelling.

(2) A person shall not be entitled to a rent allowance or, as the case may be, a rate rebate where—

- (a) he resides with the person to whom he is liable to pay rent or, as the case may be, to make payments by way of rates in respect of the dwelling; and

(b) either that person is a close relative or the tenancy or other agreement between them is other than on a commercial basis.

(3) For the purposes of paragraph (2), "close relative" means a parent, son, daughter, step-parent, step-son, step-daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother, sister, brother-in-law or sister-in-law."

Revocation of regulations 3 and 5 of the Housing Benefits (Amendment) Regulations (Northern Ireland) 1984

8. Regulations 3 and 5 of the Housing Benefits (Amendment) Regulations (Northern Ireland) 1984(a) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services on 28th December 1984.

(L.S.)

A. N. Burns

Assistant Secretary

Sealed with the Official Seal of the Department of the Environment on 28th December 1984.

(L.S.)

W. N. Campbell

Assistant Secretary

The Department of Finance and Personnel hereby consents to the foregoing provisions of these regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 31st December 1984.

(L.S.)

R. G. Smartt

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the Housing Benefits Regulations (Northern Ireland) 1983 ("the principal regulations").

Regulation 2 amends regulation 2 of the principal regulations so as to provide that the definition of rent includes payments in respect of or in consequence of use and occupation of a dwelling.

Regulations 3 and 4 amend regulations 5 and 7 of the principal regulations so as to provide that a person who is treated as a non-householder (a person not responsible for housing expenditure) for the purposes of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983 (S.R. 1983 No. 61) is not eligible for a rate rebate or rent allowance in respect of the dwelling in which he is treated as a non-householder.

Regulation 5 amends regulation 11 of the principal regulations so as to provide that where a joint tenancy or other joint agreement to pay rent or rates is entered into within eight weeks of one of the joint occupiers being a non-dependant in the same dwelling, the person who was previously a non-dependant is not eligible for housing benefit.

Regulation 6 amends regulation 18 of the principal regulations so as to provide that where a person is a joint occupier but not eligible for housing benefit by virtue of the amendment made to regulation 11 of the principal regulations by regulation 5 of these regulations he shall, in calculating any housing benefit payable to any of the other joint occupiers, be treated as a non-dependant in respect of whom a deduction falls to be made.

Regulation 7 substitutes a new regulation for regulation 22 of the principal regulations. It provides that a person shall not be entitled to a rent allowance or a rate rebate in respect of a dwelling if the agreement to pay rent or rates in respect of it was entered into in order to take advantage of the housing benefits scheme unless that person was otherwise liable to pay rent or rates in respect of that same dwelling for any period during the previous eight weeks. It also provides that a person shall not be entitled to a rent allowance or a rate rebate in respect of a dwelling if he resides with the person to whom he is liable to pay rent or rates in respect of that dwelling and that person is either a close relative or the tenancy or other agreement between them is other than on a commercial basis.

Regulation 8 revokes regulations 3 and 5 of the Housing Benefits (Amendment) Regulations (Northern Ireland) 1984.