STATUTORY RULES OF NORTHERN IRELAND

2007 No. 266

HOUSING; RATES

The Housing Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 2007

Made - - - - 1st May 2007

Coming into operation in accordance with regulation 1

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(d), 129(2) and (4) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**), and now vested in it(**b**), and paragraphs 3(1), 4(3) and (5) and 20(1)(b) and (3) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**c**).

The Regulations are made with the consent of the Department of Finance and Personnel(**d**).

The Social Security Advisory Committee has agreed that proposals in respect of regulations 2, 3(2), (5) and (6), 4(2) and (5) to (7) and 5 should not be referred to it(**e**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 2007 and, subject to paragraph (2), shall come into operation on 1st June 2007.

(2) Regulations 3(3) and (4) and 4(3) and (4) shall come into operation on 1st October 2007.

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

Amendment of the Housing Benefit (Decisions and Appeals) Regulations

2.—(1) The Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(**g**) shall be amended in accordance with paragraphs (2) and (3).

(**a**) 1992 c. 7; section 129(2) was amended by Article 8(2) of the Housing Support Services (Northern Ireland) Order 2002 (S.I. 2002/3154 (N.I. 8)) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
(**b**) *See* Article 8(b) of S.R. 1999 No. 481
(**c**) 2000 c. 4 (N.I.)
(**d**) *See* section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); *see also* Article 6(b) of S.R. 1999 No. 481
(**e**) *See* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
(**f**) 1954 c. 33 (N.I.)
(**g**) S.R. 2001 No. 213; relevant amending Regulations are S.R. 2003 No. 418, S.R. 2004 No. 144, S.R. 2005 No. 46 and S.R. 2006 No. 407

(2) In regulation 5(3)(b)(**a**) (late application for a revision) for "regulation 4(4)" substitute "regulation 4(3)".

(3) In regulation 8 (date from which a decision superseding an earlier decision takes effect)—

(a) in paragraph (6A)(a)(**b**)—

(i) in head (i)—

(aa) after "benefit week" insert "in which the day";

(bb) omit "has elapsed"; and

(cc) after "last decision" add "occurs", and

(ii) in head (ii) omit "has elapsed"; and

(b) paragraph (11), as added by regulation 4(5) of the Housing Benefit (State Pension Credit and Miscellaneous Amendments) Regulations (Northern Ireland) 2003(**c**), is renumbered paragraph (12).

Amendment of the Housing Benefit Regulations

3.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(**d**) shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 9(1)(h) (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) after "the liability" insert "in respect of rent".

(3) In regulation 13(2) (rent)—

(a) at the end of sub-paragraph (b) omit "and"; and

(b) after sub-paragraph (c) add—

"and

(d) payments by a person in respect of a dwelling where his partner is an owner of that dwelling.".

(4) In regulation 14(15) (maximum rent)—

(a) after "claimant" insert ", or the claimant's partner,"; and

(b) for "his" substitute "the claimant's".

(5) In Schedule 2 (decisions of rent payable) in paragraph 15 in the definition of "uncontrolled tenancy" for "protected or statutory tenancy within the meaning of the Rent (Northern Ireland) Order 1978" substitute "controlled tenancy within the meaning of Article 40(4) of the Private Tenancies (Northern Ireland) Order 2006(**e**)".

(6) In Schedule 3 (excluded tenancies) in paragraph 4 for "protected or statutory tenancy within the meaning of the Rent (Northern Ireland) Order 1978" substitute "controlled tenancy within the meaning of Article 40(4) of the Private Tenancies (Northern Ireland) Order 2006".

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations

4.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(**f**) shall be amended in accordance with paragraphs (2) to (7).

(**a**) Regulation 5(3)(b) was amended by regulation 8(3) of S.R. 2005 No. 46
(**b**) Regulation 8(6A) was inserted by regulation 31(2) of S.R. 2004 No. 144 and amended by paragraph 7(5)(c) of Schedule 2 to S.R. 2006 No. 407
(**c**) S.R. 2003 No. 418
(**d**) S.R. 2006 No. 405
(**e**) S.I. 2006/1459 (N.I. 10)
(**f**) S.R. 2006 No. 406

(2) In regulation 9(1)(h) (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) after "the liability" insert "in respect of rent".

(3) In regulation 13(2) (rent)—

(a) at the end of sub-paragraph (b) omit "and"; and

(b) after sub-paragraph (c) add—

"and

(d) payments by a person in respect of a dwelling where his partner is an owner of that dwelling.".

(4) In regulation 14(15) (maximum rent)—

(a) after "claimant" insert ", or the claimant's partner,"; and

(b) for "his" substitute "the claimant's".

(5) In Schedule 2 (decisions of rent payable) in paragraph 15 in the definition of "uncontrolled tenancy" for "protected or statutory tenancy within the meaning of the Rent (Northern Ireland) Order 1978" substitute "controlled tenancy within the meaning of Article 40(4) of the Private Tenancies (Northern Ireland) Order 2006".

(6) In Schedule 3 (excluded tenancies) in paragraph 4 for "protected or statutory tenancy within the meaning of the Rent (Northern Ireland) Order 1978" substitute "controlled tenancy within the meaning of Article 40(4) of the Private Tenancies (Northern Ireland) Order 2006".

(7) In Schedule 9 (matters to be included in decision notice) in paragraph 14 omit "—(1)".

Revocations

5. In the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001 regulations 7(2A)(**a**) (decisions superseding earlier decisions) and 8(11), as inserted by regulation 22(2) of the Housing Benefit (State Pension Credit) (Abolition of Benefit Periods Amendment) Regulations (Northern Ireland) 2003(**b**), are revoked.

Sealed with the Official Seal of the Department for Social Development on 1st May 2007
(L.S.)

John O'Neill
A senior officer of the Department for Social Development

The Department of Finance and Personnel consents to the Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 1st May 2007
(L.S.)

Adrian Arbuthnot
A senior officer of the Department of Finance and Personnel

(**a**) Regulation 7(2A) was inserted by regulation 22(1) of S.R. 2003 No. 294; that regulation 22 was revoked by regulation 30 of S.R. 2004 No. 144

(**b**) S.R. 2003 No. 294, which was revoked by S.R. 2006 No. 407

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various Regulations relating to housing benefit.

Regulation 2 amends the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001 to provide for the date from which certain decisions take effect and to make minor drafting corrections.

Regulations 3 and 4 amend the Housing Benefit Regulations (Northern Ireland) 2006 and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 to—

clarify that a particular restriction in relation to liability to make payments in respect of a dwelling applies to rent;

provide that where the claimant's partner is the owner of a dwelling then payments by a claimant in respect of that dwelling are not eligible for housing benefit;

provide that the amount of housing benefit payable to a claimant in respect of a dwelling will be subject to the maximum rent provisions from the beginning of his claim if his partner has claimed housing benefit in respect of that dwelling in the previous 52 weeks; and

take account of the Private Tenancies (Northern Ireland) Order 2006.

Regulation 4 also makes a minor drafting correction.

Regulation 5 revokes provisions which no longer have effect.

In so far as these Regulations are required, for the purposes of regulations 2, 3(2), (5) and (6), 4(2) and (5) to (7) and 5, to be referred to the Social Security Advisory Committee under section 149(2) of the Social Security Administration (Northern Ireland) Act 1992, after agreement by the Social Security Advisory Committee, they have not been so referred by virtue of section 150(1)(b) of that Act. Otherwise they make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, that Act, are not subject to the requirement of section 149(2) for prior reference to the Social Security Advisory Committee.

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