STATUTORY RULES OF NORTHERN IRELAND

2004 No. 45

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2004

Made - - - - - 12th February 2004

Coming into operation 29th March 2004

The Department for Social Development, in exercise of the powers conferred on it by sections 122(1)(a) and (d), 132(4)(b) and 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**), Articles 14(4)(b) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(**b**), and now vested in it(**c**) and sections 15(6) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(**d**), and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**e**), in so far as regulations 3 and 6 are concerned, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2004 and shall come into operation on 29th March 2004.

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

Amendment of the Income Support (General) Regulations

2. In regulation 2(1) of the Income Support (General) Regulations (Northern Ireland) 1987(**g**) (interpretation) –

(a) for the definition of "dwelling occupied as the home"(**h**) there shall be substituted the following definition –

" "dwelling occupied as the home" means the dwelling together with any garage, garden and outbuildings normally occupied by the claimant as his home, including any part thereof not so occupied which it is impracticable or unreasonable to sell separately, together with –

(a) any agricultural land adjoining that dwelling, and

(b) any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately;";

(**a**) 1992 c. 7; section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
(**b**) S.I. 1995/2705 (N.I. 15)
(**c**) *See* Article 8(b) of S.R. 1999 No. 481
(**d**) 2002 c. 14 (N.I.)
(**e**) *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
(**f**) 1954 c. 33 (N.I.)
(**g**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 Nos. 146 and 193 and S.R. 2003 No. 154
(**h**) Definition of "dwelling occupied as the home" was substituted by regulation 2(a) of S.R. 1988 No. 146

(b) the definition of "premises"(**a**) shall be omitted.

Amendment of the Housing Benefit (General) Regulations

3.—(1) The Housing Benefit (General) Regulations (Northern Ireland) 1987(**b**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation) –

(a) after the definition of "disability living allowance"(**c**) there shall be inserted the following definition –

" "dwelling occupied as the home" means the dwelling together with any garage, garden and outbuildings normally occupied by the claimant as his home, including any part thereof not so occupied which it is impracticable or unreasonable to sell separately, together with –

(a) any agricultural land adjoining that dwelling, and

(b) any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately;";

(b) the definition of "premises"(**d**) shall be omitted.

(3) In Schedule 5 (capital to be disregarded) –

(a) for paragraph 1(**e**) there shall be substituted the following paragraph –

"1. The dwelling occupied as the home but, notwithstanding regulation 19 (calculation of income and capital of members of claimant's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.";

(b) paragraph 24(1)(**f**) shall be renumbered as paragraph 24 and sub-paragraph (2) shall be omitted.

Amendment of the Jobseeker's Allowance Regulations

4. In regulation 1(2) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**g**) (interpretation) for the definition of "dwelling occupied as the home" there shall be substituted the following definition –

" "dwelling occupied as the home" means the dwelling together with any garage, garden and outbuildings normally occupied by the claimant as his home, including any part thereof not so occupied which it is impracticable or unreasonable to sell separately, together with –

(a) any agricultural land adjoining that dwelling, and

(b) any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately;".

Amendment of the State Pension Credit Regulations

5. In regulation 1(2) of the State Pension Credit Regulations (Northern Ireland) 2003(**h**) (citation, commencement and interpretation) –

(a) for the definition of "dwelling occupied as the home" there shall be substituted the following definition –

(**a**) Definition of "premises" was inserted by regulation 2(c) of S.R. 1988 No. 146
(**b**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1988 Nos. 117, 186 and 314, S.R. 1989 No. 125, S.R. 1992 No. 6 and S.R. 2003 Nos. 197 and 418
(**c**) Definition of "disability living allowance" was inserted by regulation 11(2) of S.R. 1992 No. 6
(**d**) Definition of "premises" was inserted by regulation 2(b) of S.R. 1988 No. 117 and amended by regulation 2 of S.R. 1988 No. 186
(**e**) Paragraph 1 was substituted by regulation 10 of S.R. 1988 No. 117
(**f**) Paragraph 24 was added by regulation 5 of S.R. 1988 No. 186 and amended by regulation 8(a) of S.R. 1988 No. 314 and regulation 12 of S.R. 1989 No. 125
(**g**) S.R. 1996 No. 198; to which there are amendments not relevant to these Regulations
(**h**) S.R. 2003 No. 28

" "dwelling occupied as the home" means the dwelling together with any garage, garden and outbuildings normally occupied by the claimant as his home, including any part thereof not so occupied which it is impracticable or unreasonable to sell separately, together with –

(a) any agricultural land adjoining that dwelling, and

(b) any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately;";

(b) in Schedule 5 (income from capital) in paragraph 6 for sub-paragraph (2) there shall be substituted the following sub-paragraph –

"(2) In this paragraph "dwelling" means the dwelling occupied as the home formerly so occupied by the claimant.".

Amendment of the Housing Benefit (State Pension Credit) Regulations

6. In Schedule 2 to the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003(**a**), in the Third Schedule (which is to have effect as Schedule 5ZA of the Housing Benefit (General) Regulations (Northern Ireland) 1987 –

(a) in Part I (capital to be disregarded) paragraph 6(1) shall be renumbered as paragraph 6 and sub-paragraph (2) shall be omitted;

(b) in Part II (capital disregarded only for the purposes of determining deemed income) paragraph 29 shall be omitted.

Sealed with the Official Seal of the Department for Social Development on 12th February 2004.

(L.S.) *John O'Neill*

A Senior Officer of the Department for Social Development

The Department of Finance and Personnel hereby consents to regulations 3 and 6 of the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 13th February 2004.

(L.S.) *Ciaran Doran*

A Senior Officer of the Department of Finance and Personnel

(**a**) S.R. 2003 No. 197

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Income Support (General) Regulations (Northern Ireland) 1987, the Housing Benefit (General) Regulations (Northern Ireland) 1987, the Jobseeker's Allowance Regulations (Northern Ireland) 1996, the State Pension Credit Regulations (Northern Ireland) 2003 and the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003 ("the principal Regulations").

These Regulations amend the principal Regulations so as to clarify the policy intention in relation to the treatment of the dwelling occupied as the home.

These Regulations 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, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

These Regulations do not impose any charge on business.

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Published and printed in the UK by The
Stationery Office Limited
under the authority and
superintendence of Carol
Tullo, Controller of
Her Majesty's Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly

Dd. N1306. C2. 2/04. Gp. 130. 14567.

£3·00

ISBN 0-337-95398-8

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