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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 448**

**HOUSING; RATES**

**The Housing Benefit (General) (Amendment  
No. 5) Regulations (Northern Ireland) 1996**

*Made - - - - 24th September 1996*

*Coming into operation 15th October 1996*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1)(d), 129(2) to (4), 131(1), 132(4)(b), 133(1) and (2)(a) and (i) and 171(5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1), section 5(1) (a), (b), (h), (j), (k) and (q) and 61(1) of the Social Security Administration (Northern Ireland) Act 1992(2) and section 11 of the Asylum and Immigration Act 1996(3) and of all other powers enabling it in that behalf, by this statutory rule, which contains only regulations made by virtue of, or consequential upon, the aforesaid section 11 and with the consent of the Department of the Environment for Northern Ireland(4) in so far as its consent is required, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Housing Benefit (General) (Amendment No. 5) Regulations (Northern Ireland) 1996 and shall come into operation on 15th October 1996.

(2) In these Regulations “the principal Regulations” means the Housing Benefit (General) Regulations (Northern Ireland) 1987(5).

(3) The Interpretation Act (Northern Ireland) 1954(6) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

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(1) 1992 c. 7

(2) 1992 c. 8

(3) 1996 c. 49

(4) 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))

(5) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1988 Nos. 117 and 424, S.R. 1989 No. 125, S.R. 1991 No. 47, S.R. 1992 No. 141, S.R. 1993 No. 145, S.R. 1994 Nos. 80, 266 and 335, S.R. 1995 No. 129 and S.R. 1996 Nos. 11, 93, 111, 115, 181, 221 and 334

(6) 1954 c. 33 (N.I.)

### **Amendment of regulation 7A of the principal Regulations**

2. In regulation 7A of the principal Regulations (persons from abroad)(7)—
- (a) in paragraph (1) at the end there shall be added “but this paragraph shall not have effect in respect of a person to whom and for a period to which regulation 7B (entitlement of a refugee to housing benefit) and Schedule A1 (treatment of claims for housing benefit by refugees) apply(8)”;
  - (b) in paragraph (4)(e) for head (ii) there shall be substituted the following head—  
“(ii) a refugee;”;
  - (c) in paragraph (7) at the end there shall be added the following definition—  
““refugee” in this regulation, regulation 7B and Schedule A1, means a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees(9).”.

### **Insertion of regulation 7B into the principal Regulations**

3. After regulation 7A of the principal Regulations (persons from abroad) there shall be inserted the following regulation—

#### **“Entitlement of a refugee to housing benefit**

**7B.** Where a person, who has made a claim for asylum, is notified that he has been recorded by the Secretary of State as a refugee, these Regulations shall have effect with respect to his entitlement to housing benefit for the relevant period which applies in his case in accordance with Schedule A1 (treatment of claims for housing benefit by refugees), but that entitlement is—

- (a) subject to the provisions of Schedule A1, and
- (b) with respect to regulations 10 (rent) and 11 (maximum rent), subject to regulation 16(5A) of the Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1996 (savings provision)(10).”.

### **Amendment of Schedule 4 to the principal Regulations**

4. In Schedule 4 to the principal Regulations (sums to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 54(11) at the end there shall be added—  
“including any amount of council tax benefit to which a person is entitled by virtue of regulation 4D of the Council Tax Benefit (General) Regulations 1992 (entitlement of a refugee to council tax benefit)(12)
- (b) after paragraph 61(13) there shall be added the following paragraphs—  
“**62.** Any amount of housing benefit to which a person is entitled by virtue of regulation 7B (entitlement of a refugee to housing benefit).

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(7) Regulation 7A was inserted by regulation 2(1) of S.R. 1994 No. 80 and amended by regulation 3(1)(a) of S.R. 1994 No. 266 and regulation 5(d) of S.R. 1996 No. 11 and saved by section 11 to the Asylum and Immigration Act 1996

(8) Regulation 7B and Schedule A1 are inserted by regulations 3 and 6 of these Regulations

(9) Cmd. 9171

(10) S.R. 1996 No. 111; paragraph (5A) of regulation 16 is inserted by regulation 8 of these Regulations

(11) Paragraph 54 was added by regulation 12(e) of S.R. 1993 No. 145

(12) S.I. 1992/1814; regulation 4D was inserted by regulation 3 of S.I. 1996/2432

(13) Paragraph 61 was substituted by regulation 4 of S.R. 1996 No. 93

63. Any amount of income support to which a person is entitled by virtue of regulation 21A of the Income Support (General) Regulations (Northern Ireland) 1987 (treatment of refugees)(14).”.

#### **Amendment of Schedule 5 to the principal Regulations**

5. In Schedule 5 to the principal Regulations (capital to be disregarded)—

(a) in paragraph 44(15) at the end there shall be added—

“, including any amount of council tax benefit to which a person is entitled by virtue of regulation 4D of the Council Tax Benefit (General) Regulations 1992 (entitlement of a refugee to council tax benefit) but only for a period of 52 weeks from the date that such an amount is received pursuant to that regulation”;

(b) after paragraph 47(16) the following paragraphs shall be added—

“48. Any amount of housing benefit to which a person is entitled by virtue of regulation 7B (entitlement of a refugee to housing benefit) but only for a period of 52 weeks from the date that such an amount is received pursuant to that regulation.

49. Any amount of income support to which a person is entitled by virtue of regulation 21A of the Income Support (General) Regulations (Northern Ireland) 1987 (treatment of refugees) but only for a period of 52 weeks from the date that such an amount is received pursuant to that regulation.”.

#### **Insertion of Schedule A1 into the principal Regulations**

6. Before Schedule 1 to the principal Regulations (ineligible service charges) there shall be inserted Schedule A1 (treatment of claims for housing benefit by refugees) which is set out in the Schedule to these Regulations.

#### **Consequential amendments to the principal Regulations**

7. The principal Regulations shall be further amended in accordance with paragraphs (a) to (g)—

(a) in regulation 16 (applicable amounts) for the words from “and 70” to “periods)” there shall be substituted “, 70 and Schedule A1 (polygamous marriages, patients, calculation of weekly amounts, rent and rate-free periods and treatment of claims for housing benefit by refugees)”;

(b) in regulation 17 (polygamous marriages) for the words from “and 70” to “periods)” there shall be substituted “, 70 and Schedule A1 (patients, calculation of weekly amounts, rent and rate-free periods and treatment of claims for housing benefit by refugees)”;

(c) in regulation 18(1) (patients) for the words from “and 70” to “periods)” there shall be substituted “, 70 and Schedule A1 (calculation of weekly amounts, rent and rate-free periods and treatment of claims for housing benefit by refugees)”;

(d) in regulation 72(1) (time and manner in which claims are to be made) at the end there shall be added “or paragraph 5 of Schedule A1 (treatment of claims for housing benefit by refugees)”;

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(14) S.R. 1987 No. 459; regulation 21A was inserted by regulation 2(3) of S.R. 1996 No. 449

(15) Paragraph 44 was added by regulation 13(c) of S.R. 1993 No. 145

(16) Paragraph 47 was added by regulation 21(c) of S.R. 1996 No. 334

- (e) in regulation 73(1) (evidence and information)(17) at the beginning there shall be inserted “Subject to paragraph 5 of Schedule A1 (treatment of claims for housing benefit by refugees),”;
- (f) in regulation 76(2) (who is to make a determination)—
  - (i) in sub-paragraph (a) at the end there shall be added “or paragraph 1 of Schedule A1 (treatment of claims for housing benefit by refugees)”;
  - (ii) in sub-paragraph (b) after “regulation 73 (evidence and information)” there shall be inserted “or paragraph 5 of Schedule A1”;
- (g) in regulations 93 and 94 (circumstances in which payment is or may be made to a landlord or the Department of the Environment) at the beginning there shall be inserted “Subject to paragraph 8(3) of Schedule A1 (treatment of claims for housing benefit by refugees),”.

### **Amendment of the Housing Benefit (General) (Amendment No. 2) Regulations**

**8.** In regulation 16 of the Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1996 (saving provision)(18) after paragraph (5) there shall be inserted the following paragraph—

“(5A) The eligible rent of a person to whom regulation 7B (entitlement to housing benefit by refugees) of and Schedule A1 to the principal Regulations (treatment of claims for housing benefit by refugees) apply, shall be determined in accordance with regulations 10 (rent) and 11 (restrictions on unreasonable payments) of the principal Regulations as in operation on 1st April 1996.”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 24th September 1996.

L.S.

*John O'Neill*  
Assistant Secretary

The Department of the Environment for Northern Ireland hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 24th September 1996.

L.S.

*R. E. Aiken*  
Assistant Secretary

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(17) Paragraph (1) was amended by regulation 7 of S.R. 1988 No. 117 and regulation 8(a) of S.R. 1992 No. 141

(18) S.R. 1996 No. 111

SCHEDULE

Regulation 6.

“SCHEDULE A1

Regulation 7B

Treatment of Claims for Housing Benefit by Refugees

**Claim for housing benefit by a refugee**

1.—(1) Where a person (in this Schedule called “the claimant”), who has made a claim for asylum—

- (a) is subsequently notified by the Secretary of State that he has been recorded as a refugee, and
- (b) claims housing benefit—
  - (i) within the period specified in paragraph 2(3), and
  - (ii) in respect of one or more periods from and including the date of his claim for asylum to the date he is so notified,

his claim for housing benefit shall be treated as having been made on whichever of the dates specified in sub-paragraph (2) applies in his case.

(2) A claim for housing benefit to which sub-paragraph (1) refers shall be treated as made—

- (a) in the case of a claimant who made a claim for asylum upon arrival in the United Kingdom, on the date on which his claim for asylum was first refused by the Secretary of State or 5th February 1996 if that is later, or
- (b) in the case of a claimant whose claim for asylum was made other than on arrival in the United Kingdom, on the date of that claim for asylum or 5th February if that is later.

(3) In this Schedule “the relevant period” means the period or any part of the period, from and including the date on which the claim for benefit is treated as made in accordance with sub-paragraph (2), to the date the claimant concerned is notified by the Secretary of State that he has been recorded as a refugee, for which housing benefit is claimed in accordance with this paragraph.

**Appropriate authority to whom a claim for housing benefit shall be made and time for making a claim**

2.—(1) A claim for housing benefit for the relevant period may be made to the appropriate authority for the dwelling which the claimant occupied as his home and in respect of which he was liable to make payments.

(2) Where the claimant occupied more than one dwelling as his home in the relevant period, only one claim for housing benefit shall be made to the appropriate authority in respect of that period.

(3) A claim for housing benefit, to which this paragraph refers, shall be made—

- (a) in the case of a claimant who was notified by the Secretary of State in the period from and including 24th July 1996 to 15th October 1996 that he had been recorded as a refugee, within 28 days of the later date;
- (b) in any other case, within 28 days of a claimant being notified by the Secretary of State that he has been recorded as a refugee.

(4) Regulation 72(14) (backdating of claims)(19) shall not have effect with respect to claims to which this Schedule applies.

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(19) Paragraph (14) was amended by regulation 5 of S.R. 1996 No. 93

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### **Eligible rent or rates**

- 3.—(1) Subject to sub-paragraph (2), for the purpose of determining a claimant's eligible rent—
- (a) regulations 10 (rent)(**20**) and 11 (restrictions on unreasonable payments)(**21**) have effect as they were in operation on 1st April 1996, and
  - (b) regulation 10A (determinations)(**22**) shall not have effect.

(2) In determining a claimant's eligible rent or rates for the relevant period, the appropriate authority may have regard to information in their possession or which they may obtain, as to the level of rents or rates which had effect in that period in respect of any dwelling which the claimant occupied as his home and in respect of which his claim for housing benefit is made.

### **Applicable amounts**

4. With respect to a claim for housing benefit under this Schedule, the applicable amounts for the purposes of Part V shall be the aggregate of any personal allowance and premium which would have been applicable in the claimant's case in the relevant period at the rates for each tax year to which the claim relates set by—

- (a) an Order made under section 132 of the Social Security Administration (Northern Ireland) Act 1992; or
- (b) in the case of rates (within the meaning of Article 2(2) of the Rates (Northern Ireland) Order 1977(**23**)), by housing benefit Regulations made under Part VII of the Contributions and Benefits Act.

### **Evidence and information**

5.—(1) A claimant who makes a claim for housing benefit for the relevant period shall furnish such certificates, documents, information and evidence in connection with the claim, or evidence needed for the determination of the claim or any questions arising in connection with the claim, as may be reasonably required by the appropriate authority in order to determine that person's entitlement to that benefit and which are in his possession or which he may reasonably be expected to obtain.

- (2) The appropriate authority may require information to be provided by—
- (a) the landlord of any dwelling in respect of which a claim for housing benefit arises under this Schedule;
  - (b) any other person to whom the rent or rates for the dwelling was paid; and
  - (c) any person who made payments of rent or rates to a landlord on behalf of a claimant in the relevant period,

in particular as to the amount of any such rent or rates and any service charges which were included in the rent.

(3) Where the claimant is unable to furnish the necessary evidence to substantiate his claim the appropriate authority shall determine the claim on the basis of the evidence that is produced, including any statements made by the claimant himself, any information provided by a landlord under sub-paragraph (2) or by any other person.

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(20) Regulation 10 was amended by regulation 5 of S.R. 1988 No. 424, regulation 4 of S.R. 1993 No. 145 and regulation 5 of S.R. 1996 No. 111

(21) Regulation 11 was amended by regulation 3 of S.R. 1989 No. 125, regulation 2 of S.R. 1991 No. 47 and regulation 3 of S.R. 1995 No. 129

(22) Regulation 10A was inserted by regulation 6 of S.R. 1996 No. 111 and amended by regulation 2 of S.R. 1996 No. 221

(23) S.I. 1977/2157 (N.I. 28)

### Changes of circumstances

6. With respect to claims for housing benefit to which paragraph 1 applies, for paragraph (1) of regulation 75 (duty to notify changes of circumstances) there shall be substituted the following paragraph—

“(1) Upon claiming housing benefit in accordance with Schedule A1 (treatment of claims for housing benefit by refugees) a claimant, or any person by whom or on whose behalf sums payable by way of housing benefit are receivable, shall provide the appropriate authority with information concerning any change of circumstances which occurred during the period to which the claim relates which the claimant or that other person might reasonably expect to affect the claimant’s right to and the amount of benefit.”.

### Calculation of amount of benefit

7.—(1) Subject to sub-paragraph (2), the appropriate maximum housing benefit to which a claimant is entitled under regulation 7B (entitlement of a refugee to housing benefit) and this Schedule shall be calculated on a weekly basis in accordance with Part VIII as it had effect for the relevant period.

(2) Where any part of the relevant period falls after 1st April 1996, in Part VIII regulation 61(2) to (4) (maximum housing benefit)(24) shall not have effect.

### Payments

8.—(1) Subject to sub-paragraph (4), where it is determined that the claimant is entitled to housing benefit in accordance with regulation 7B and this Schedule, payment of the amount due shall be made within 14 days of the date of that determination.

(2) Regulation 91 (payment on account of a rent allowance)(25) shall not have effect with respect to any payment to which a claimant is entitled under regulation 7B.

(3) Regulations 93 and 94 (circumstances in which payment is to be or may be made to a landlord or the Department of the Environment)(26) shall not have effect with respect to a payment to which this Schedule applies but where—

- (a) a landlord shows that, for the whole or any part of the relevant period for which housing benefit in the form of a rent allowance or rate rebate has been awarded, no payment of rent or rates has been made;
- (b) information is provided to show the rent or rates that remains due;
- (c) the claimant has been notified that a payment to the landlord or the Department of the Environment may be made, and
- (d) the appropriate authority, having taken account of any representations made by the claimant with respect to such a payment being made, consider that it is reasonable that the benefit or part of the benefit due should be paid to the landlord or the Department of the Environment,

any benefit to which the claimant is entitled under regulation 7B and this Schedule up to the amount of the eligible rent or rates that is due, may be paid direct to the landlord concerned or the Department of the Environment in respect of that rent or rates.

(4) Where a claimant was the tenant of the Executive for the whole or part of the relevant period, to the extent that any eligible rent or rates remain due to the Executive in respect of the whole or part of that period, any housing benefit to which the claimant is entitled under regulation 7B and this

(24) Paragraphs (2), (3) and (4) were added by regulation 10 of S.R. 1996 No. 111

(25) Paragraph (1) was amended by regulation 13 of S.R. 1996 No. 111

(26) Regulation 94 was amended by regulation 10 of S.R. 1994 No. 335 and regulation 7 of S.R. 1996 No. 181

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Schedule shall be reduced by the amount of the eligible rent or rates remaining due to the Executive and any balance of benefit remaining due in respect of that period shall be paid to the claimant.

### **Offsets**

9. Any housing benefit which has otherwise been paid to the claimant or any partner of his, in respect of any part of the relevant period, shall be offset against any award due to the claimant by virtue of regulation 7B and this Schedule, except to the extent that the benefit paid or allowed to that partner was due in respect of a period for which he was not a partner of the claimant.

### **Matters to be included in notice of determination**

10. Parts I to III, V and VI of Schedule 6 (matters to be included in notice of determination)(27) shall apply with respect to claims made in accordance with regulation 7B.”

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations.)*

These Regulations further amend the Housing Benefit (General) Regulations (Northern Ireland) 1987 (“the 1987 Regulations”) and the Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1996 to provide—

- (a) that a claim for housing benefit may be made by a person who has been recorded as a refugee by the Secretary of State in respect of the period from and including the date of his claim for asylum to the date he is recorded as a refugee;
- (b) for the date on which such a claim for benefit is to be treated as made, and
- (c) that any benefit to which the claimant is entitled shall be paid.

The Regulations also provide for the manner in which the benefit due is to be calculated and for modifying the effect of the 1987 Regulations with respect to applicable amounts, the evidence to be produced in support of claims, changes of circumstances and the manner in which benefit is to be paid.

These Regulations are made pursuant to section 11 of the Asylum and Immigration Act 1996 (1996 c. 49) and are made before the end of the period of 6 months beginning with the date section 11 of the Asylum and Immigration Act 1996 came into operation (24th July 1996). Accordingly they are exempted by section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) from reference to the Social Security Advisory Committee and have not been so referred.

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(27) Paragraph 2 of Part I was amended by regulation 15 of S.R. 1992 No. 141