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STATUTORY RULES OF NORTHERN IRELAND

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**2003 No. 294**

**The Housing Benefit (State Pension Credit)  
(Abolition of Benefit Periods Amendment)  
Regulations (Northern Ireland) 2003**

**PART 1**

**General**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Housing Benefit (State Pension Credit) (Abolition of Benefit Periods Amendment) Regulations (Northern Ireland) 2003 and shall come into operation –

- (a) for the purposes of Parts 1 and 3, on 16th June 2003, and
- (b) for all other purposes on 6th October 2003 immediately after the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003(1).

(2) In these Regulations –

“the Act” means the Child Support, Pensions and Social Security Act (Northern Ireland) 2000;  
“appropriate relevant authority” has the same meaning as in paragraph 4 of Schedule 7 to the Act;

“benefit period” has the same meaning as in regulation 66 of the Housing Benefit Regulations as in force immediately before 6th October 2003;

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations (Northern Ireland) 1987(2);

“the qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act (Northern Ireland) 2002(3) –

- (a) in the case of a woman, pensionable age, or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

“state pension credit” means state pension credit under the State Pension Credit Act (Northern Ireland) 2002, and

(3) The Interpretation Act (Northern Ireland) 1954(4) shall apply to these Regulations as it applies to an Act of the Assembly.

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(1) S.R. 2003 No. 197

(2) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1989 No. 125, S.R. 1990 No. 137, S.R. 1991 No. 47, S.R. 1992 No. 141, S.R. 1993 No. 149, S.R. 1996 Nos. 111, 115 and 334, S.R. 1999 Nos. 381 and 416, S.R. 2000 Nos. 1, 265 and 365, S.R. 2001 Nos. 79, 99, 151, 175, 215 and 238, S.R. 2002 No. 80 and S.R. 2003 Nos. 189 and 197

(3) 2002 c. 14 (N.I.)

(4) 1954 c. 33 (N.I.)

## PART 2

### Amendment of Housing Benefit Regulations

#### Housing Benefit Regulations

2.—(1) The Housing Benefit Regulations shall have effect, except where paragraph (2) applies, in relation to any person who has attained the qualifying age for state pension credit, subject to the modifications or amendments set out in this Part.

(2) This paragraph applies where the claimant or, if the claimant has a partner, his partner, is a person on income support or on an income-based jobseeker's allowance within the meaning of the Housing Benefit Regulations(5), as the case may be.

#### Continuing payments where state pension credit claimed

3. In regulation 62B of the Housing Benefit Regulations(6) (continuing payments where state pension credit claimed) –

- (a) in paragraph (3) for “In” there shall be substituted “Subject to paragraph (3A), in”;
- (b) after paragraph (3), there shall be inserted –

“(3A) Where housing benefit is paid for the period of 4 weeks in accordance with paragraph (3), and the last day of that period falls on a day other than the last day of a benefit week, then housing benefit shall continue to be paid until the end of the benefit week in which the last day of that period falls.”, and

- (c) in paragraph (4) after “in paragraph (3)” there shall be inserted “and any further period specified in paragraph (3A)”.

## PART 3

### Transitory Provisions

#### Transitory Provision

4.—(1) This regulation applies in the case of a claimant –

- (a) who has attained the qualifying age for state pension credit on or before 6th October 2003, and
- (b) whose benefit period is due to end in the period beginning on and including 16th June 2003 and ending on 5th October 2003.

(2) Where this regulation applies the appropriate relevant authority, where it considers it appropriate to do so and upon its own initiative, may make a decision under paragraph 4 of Schedule 7 to the Act (decisions superseding earlier decisions).

(3) Where the effect of the decision made in accordance with paragraph (2) is that the benefit period is to be extended, a decision to which paragraph (2) applies shall take effect on the day immediately after the day on which the benefit period would have expired but for the decision made in accordance with this regulation.

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(5) See regulation 2(1) and (3A); paragraph (3A) was inserted by regulation 2(b) of S.R. 1996 No. 334 and amended by regulation 3(a) and (b) of S.R. 2000 No. 365 and regulation 4(3) of S.R. 2002 No. 80

(6) Regulation 62B was inserted by regulation 10 of S.R. 2003 No. 197

(4) Where this regulation applies and the appropriate relevant authority considers it appropriate to make a decision under paragraph (2), the provisions in regulation 72(13)(a) and (b) of the Housing Benefit Regulations(7) (time and manner in which claims are to be made) shall not apply.

#### **Extension of benefit period**

5. Where regulation 4(1) applies regulation 66(3) of the Housing Benefit Regulations(8) (benefit period) shall have effect as if the reference to “60 benefit weeks” were a reference to “85 benefit weeks”.

## **PART 4**

### **Consequential and Transitional Provisions**

#### **Application of this Part**

6.—(1) This Part shall have effect, except where paragraph (2) applies, in relation to a person who has attained the qualifying age for state pension credit.

(2) This paragraph applies where the claimant or, if the claimant has a partner, his partner, is a person on income support or on an income-based jobseeker’s allowance within the meaning of the Housing Benefit Regulations.

#### **Amendment of regulation 2 of the Housing Benefit Regulations**

7. In regulation 2(1) of the Housing Benefit Regulations (interpretation) –
- (a) the definition of “benefit period” shall be omitted,
  - (b) after the definition of “Preparation for Employment Programme for 50 plus”(9) there shall be inserted the following definition –
    - ““the qualifying age for state pension credit” means (in accordance with section 1(2) (b) and (6) of the State Pension Credit Act (Northern Ireland) 2002 –
    - (a) in the case of a woman, pensionable age, or
    - (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;”.

#### **Amendment of regulation 7 of the Housing Benefit Regulations**

8. In regulation 7(12) of the Housing Benefit Regulations(10) (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) the words from “except” to the end of the paragraph shall be omitted.

#### **Amendment of regulation 11 of the Housing Benefit Regulations**

9. In regulation 11(6) of the Housing Benefit Regulations(11) (maximum rent) –

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(7) Paragraph (13)(a) and (b) was amended by regulation 9(b) of S.R. 1991 No. 47, regulation 13(c) of S.R. 1996 No. 334, regulation 4(3)(a)(i) and (ii) of S.R. 1999 No. 381 and Schedule 1 to S.R. 2001 No. 215

(8) Paragraph (3) was amended by regulation 5(a) of S.R. 2000 No. 1

(9) Definition of “Preparation for Employment Programme for 50 plus” was inserted by regulation 13(2)(a) and (3)(a) of S.R. 2001 No. 151

(10) Paragraph (12) was added by regulation 3(4)(c) of S.R. 1993 No. 149

(11) Regulation 11 was inserted by regulation 7 of S.R. 1996 No. 111 and paragraph (6) was amended by regulations 4(c)(i) and 5(a) of S.R. 2001 No. 215

- (a) in sub-paragraph (b) for “benefit period” there shall be substituted “award of housing benefit”;
- (b) for the words after sub-paragraph (b) there shall be substituted –
  - “then –
  - (i) the maximum rent shall not be reduced, where the sum is not less than the maximum rent, during a period ending on the date that the Executive next makes a decision under regulation 10A (decisions), and
  - (ii) the maximum rent shall be reduced to an amount equal to that sum, where that sum is less than the maximum rent during a period ending on the date that the Executive next makes a decision under regulation 10A.”.

### Extended payments

**10.** In regulation 62A of the Housing Benefit Regulations(**12**) (extended payments) after paragraph (5), there shall be inserted the following paragraph –

“(5A) Where a person attains the qualifying age for state pension credit during the period of an extended payment made to him or his partner under this regulation, paragraph (5) (b)(**13**) shall have effect as if –

- (a) after “beneficiary” there were inserted “or his partner”; and
- (b) for the words from “deemed to be” to the end of that sub-paragraph there were substituted “treated as having been made in respect of a period beginning immediately after the end of the benefit period.”.

### Change of circumstances

**11.** In regulation 68 of the Housing Benefit Regulations (date on which change of circumstances is to take effect) –

- (a) in paragraph (1)(**14**) for “regulation 8(3) (eligible housing costs) or regulation 26” there shall be substituted “regulation 29”(15);
- (b) at the beginning of paragraphs (2)(16), (3)(17) and (4)(18) there shall be inserted “Subject to paragraphs (13) and (14),”;
- (c) after paragraph (12)(19) the following paragraphs shall be added –
  - “(13) Paragraph (14) applies where –
  - (a) a change of circumstances would, but for that paragraph, take effect in accordance with paragraph (2), (3)(a)(i) or (b) or (4) on a day that is not the first day of a benefit week, and
  - (b) the effect of that change of circumstances is to end entitlement to housing benefit.

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(12) Regulation 62A was inserted by regulation 3 of S.R. 1996 No. 115

(13) Paragraph (5)(b) was amended by regulation 4(2)(c)(ii) of S.R. 1999 No. 381

(14) Paragraph (1) was amended by regulation 6(a) of S.R. 1999 No. 416, regulation 8(a)(i) of S.R. 2001 No. 215, regulation 2(2) (a) of S.R. 2003 No. 189 and regulation 13(2) of S.R. 2003 No. 197

(15) Regulation 29 was substituted, in relation to those who have attained the qualifying age for state pension credit, by regulation 8 of S.R. 2003 No. 197

(16) Paragraph (2) was amended by regulation 8(a)(ii) of S.R. 2001 No. 215

(17) Paragraph (3) was substituted by regulation 7(b) of S.R. 1992 No. 141

(18) Paragraph (4) was amended by regulation 7(c) of S.R. 1992 No. 141

(19) Paragraph (12) was added by regulation 13(3) of S.R. 2003 No. 197

(14) In a case to which this paragraph applies, the change of circumstances shall take effect from the first day of the benefit week following the day on which the change of circumstances actually occurred.”.

#### **Time claims are made or treated as made**

**12.** Subject to regulation 19, in the Housing Benefit Regulations –

- (a) in regulation 65(1)(**20**) (date on which entitlement is to commence) “regulation 72(11) to (13) (renewal claims) and” shall be omitted, and
- (b) in regulation 72 (time and manner in which claims are to be made) paragraphs (11) to (13A)(**21**) shall be omitted.

#### **Amendment of regulation 76 of the Housing Benefit Regulations**

**13.** Regulation 76(2)(d) of the Housing Benefit Regulations (who is to make a decision) shall be omitted.

#### **Amendment of regulation 104 of the Housing Benefit Regulations**

**14.** Regulation 104(2) of the Housing Benefit Regulations(**22**) (sums to be deducted in calculating recoverable overpayments) shall be omitted.

#### **Amendment of Schedule 1B to the Housing Benefit Regulations**

**15.**—(1) Schedule 1B to the Housing Benefit Regulations(**23**) (excluded tenancies) shall be amended in accordance with the following paragraphs.

(2) For paragraph 2(2)(**24**) there shall be substituted –

“(2) For the purposes of any claim, notification, request or application (“the later application”), a tenancy shall not be an excluded tenancy by virtue of sub-paragraph (1) by reference to the Executive’s decision made in consequence of an earlier claim, notification, request or application (“the earlier application”) where –

- (a) the earlier and later applications were made in respect of the same claimant or different claimants, and
- (b) the earlier application was made more than 52 weeks before the later application was made.”.

(3) Paragraph 2(2A) shall be omitted.

#### **Amendment of Schedule 6 to the Housing Benefit Regulations**

**16.** Paragraph 9(h)(**25**) of Schedule 6 to the Housing Benefit Regulations (awards where income support or state pension credit is payable) shall be omitted.

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(20) Paragraph (1) was amended by regulation 4(3)(a) of S.R. 1990 No. 137

(21) Paragraph (13A) was inserted by regulation 4(3)(b) of S.R. 1999 No. 381

(22) Regulation 104 was substituted by regulation 5 of S.R. 2000 No. 265

(23) Schedule 1B was inserted by regulation 15 and Schedule 2 of S.R. 1996 No. 111

(24) Paragraph 2(2) was substituted by regulation 7 of S.R. 2001 No. 79 and amended by regulation 4(s)(i) of S.R. 2001 No. 215 and regulation 3(a) and 3(b) of S.R. 2001 No. 238

(25) Paragraph 9 was amended by regulation 13 of S.R. 1989 No. 125, regulation 23(2)(a) of S.R. 1996 No. 334 and regulation 6(b) of S.R. 2001 No. 215

### Minor and consequential amendments

17.—(1) In the provisions specified in paragraph (2), for the words “benefit period” wherever they occur, there shall be substituted the words “award of housing benefit”, preceded, where appropriate, by “an” instead of “a”.

(2) The provisions referred to in paragraph (1) are the following regulations in the Housing Benefit Regulations –

- (a) regulation 11(12) and (13)(**26**) (maximum rent);
- (b) regulation 70(2) (rent and rate-free periods), and
- (c) regulation 75(1)(**27**) (duty to notify changes of circumstances).

(3) In regulation 70(2)(a) of the Housing Benefit Regulations (rent and rate-free periods) for the words “that period” in both places where they occur, there shall be substituted the words “that award”.

### Transitional Provision

18.—(1) Paragraphs (2) and (3) apply in the case of a claimant whose, or whose partner's, benefit period ends before 6th October 2003.

(2) Where paragraph (1) applies, regulation 72(12) and (13)(**28**) of the Housing Benefit Regulations shall continue to have effect until 3rd November 2003.

(3) Where paragraph (1) applies and either –

- (a) a claimant makes a claim for a further grant of housing benefit in accordance with regulation 72(12) of the Housing Benefit Regulations after 6th October 2003 but no later than 4 weeks after the end of the benefit period, or
- (b) a relevant authority invites that claimant to make a claim for a further grant of housing benefit in accordance with regulation 72(13) of the Housing Benefit Regulations and following that invitation, a claim is received from that claimant after 6th October 2003 but no later than 4 weeks after the end of the benefit period,

that claim shall be treated as having been made in respect of the period beginning immediately after the end of the benefit period.

(4) Paragraphs (5) and (6) shall apply in the case of a claimant –

- (a) whose, or whose partner's, benefit period ends before the claimant attains the qualifying age for state pension credit, and
- (b) who attains the qualifying age for state pension credit no later than 4 weeks after the end of the benefit period.

(5) Where paragraph (4) applies, regulation 72(12) and (13) of the Housing Benefit Regulations shall continue to have effect until 4 weeks after the day on which the benefit period ends.

(6) Where paragraph (4) applies and either –

- (a) a claimant makes a claim for a further grant of housing benefit in accordance with regulation 72(12) of the Housing Benefit Regulations after he has attained the qualifying age for state pension credit but no later than 4 weeks after the end of the benefit period, or
- (b) a relevant authority invites that claimant to make a claim for a further grant of housing benefit in accordance with regulation 72(13) of the Housing Benefit Regulations and,

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(26) Regulation 11 was substituted by regulation 7 of S.R. 1996 No. 111

(27) Regulation 75(1) was amended by regulation 8(3)(a) of S.R. 2001 No. 175 and regulation 4(h) of S.R. 2001 No. 215

(28) Regulation 72(13) was amended by regulation 9(b) of S.R. 1991 No. 47, regulation 13(c) of S.R. 1996 No. 334, regulation 4(3)(a)(i)(aa) and (bb) and 4(3)(a)(ii) and (iii) of S.R. 1999 No. 381, regulation 4 of S.R. 2001 No. 99 and Schedule 1 to S.R. 2001 No. 215

following that invitation, a claim is received from that claimant after he has attained the qualifying age for state pension credit but no later than 4 weeks after the end of the benefit period,

that claim shall be treated as having been made in respect of the period beginning immediately after the end of the benefit period.

### **Transitional provision for rent decisions**

**19.**—(1) Paragraph (2) applies where a claimant attains or has attained the qualifying age for state pension credit on or before 6th October 2003.

(2) If, on 6th October 2003, more than 52 weeks have elapsed since the relevant authority last made a decision in relation to that claimant’s or his partner’s, claim for, or award of, housing benefit in accordance with regulation 10A of the Housing Benefit Regulations (decisions), the relevant authority shall make a decision in pursuance of regulation 10A of the Housing Benefit Regulations as soon as practicable after 6th October 2003.

(3) Paragraph (4) applies where a claimant attains the qualifying age for state pension credit on a date (“the qualifying date”) after 6th October 2003.

(4) If, on the qualifying date, more than 52 weeks have elapsed since the relevant authority last made a decision in relation to that claimant’s or his partner’s, award of housing benefit in accordance with regulation 10A of the Housing Benefit Regulations (decisions), the relevant authority shall make a decision in pursuance of regulation 10A of the Housing Benefit Regulations as soon as is practicable after the qualifying date.

(5) An appropriate relevant authority may make a decision under paragraph 4 of Schedule 7 to the Act in a case to which paragraphs (2) or (4) apply.

(6) Where an appropriate relevant authority makes a decision under paragraph (5) in consequence of paragraph (2) or (4) the decision shall take effect –

- (a) in a case to which paragraph (2) applies, on 6th October 2003, and
- (b) subject to paragraph (7), in a case to which paragraph (4) applies, on the qualifying date.

(7) Where an appropriate relevant authority makes a decision under paragraph (5) in consequence of paragraph (4) –

- (a) in a case where entitlement to housing benefit ceases, and
- (b) where the qualifying date is not the first day of the benefit week,

the decision shall take effect on the first day of the benefit week following the benefit week in which the qualifying date falls.

## **PART 5**

### **Application and Amendment of Other Provisions**

#### **Amendment of regulation 16 of the Housing Benefit (General) (Amendment No. 2) Regulations**

**20.** In regulation 16 of the Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1996(29) (savings provisions) –

- (a) after paragraph (5B)(30), there shall be inserted the following paragraphs –

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(29) S.R. 1996 No. 111; relevant amending regulations are S.R. 1998 No. 324

(30) Paragraph (5B) was inserted by regulation 10(c) of S.R. 1998 No. 324

“(5C) Subject to paragraph (5D), paragraphs (1) to (5A) above shall have effect where a claimant has attained the qualifying age for state pension credit as if any references to a benefit period were references to an award of housing benefit.

(5D) Paragraph (5C) shall not apply if the claimant, or if the claimant has a partner, his partner, is a person on income support or on an income-based jobseeker’s allowance within the meaning of the Principal Regulations.”;

(b) in paragraph (6), at the appropriate places, insert the following definitions –

““the qualifying age for state pension credit” means (in accordance with section 1(2) (b) and (6) of the State Pension Credit Act (Northern Ireland) 2002(31) –

(a) in the case of a woman, pensionable age, or

(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

“state pension credit” means state pension credit under the State Pension Credit Act 2002.”

#### **Amendment of regulation 5 of the Housing Benefit (General) (Amendment No. 4) Regulations**

**21.** In regulation 5(32) of the Housing Benefit (General) (Amendment No. 4) Regulations (Northern Ireland) 1997(33) (savings) after paragraph (2AC)(34) there shall be inserted the following paragraphs –

“(2AD) Paragraph (2A) shall have effect where a claimant has attained the qualifying age for state pension credit as if the words “makes a further claim for housing benefit under regulation 72(11) and (13) of the principal Regulations, where he” were omitted;

(2AE) Paragraph (2AD) shall not apply if the claimant, or if the claimant has a partner, his partner, is a person on income support or on an income-based jobseeker’s allowance within the meaning of the principal Regulations(35).

(2AF) In this Regulation –

““the qualifying age for state pension credit” means (in accordance with section 1(2) (b) and (6) of the State Pension Credit Act (Northern Ireland) 2002) –

(a) in the case of a woman, pensionable age, or

(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

“state pension credit” means state pension credit under the State Pension Credit Act (Northern Ireland) 2002.””

#### **Amendment of regulations 7 and 8 of the Housing Benefit (Decisions and Appeals) Regulations**

**22.—(1)** In regulation 7(36) of the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(37) (decisions superseding earlier decisions) there shall be inserted the following paragraph –

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(31) 2002 c. 14 (N.I.)

(32) Regulation 5 was amended by regulation 2(4) of S.R. 1997 No. 377

(33) S.R. 1997 No. 170; relevant amending Regulations are S.R. 1997 No. 377 and S.R. 1998 No. 324

(34) Paragraph (2AC) was inserted by regulation 12(b) of S.R. 1998 No. 324

(35) See regulation 2(1) and (3A); Regulation 2(3A) was inserted by regulation 2(b) of S.R. 1996 No. 334 and amended by regulation 3(a) and (b) of S.R. 2000 No. 365 and regulation 4(3) of S.R. 2002 No. 80

(36) Regulation 7 was amended by regulation 4(2) of S.R. 2003 No. 224



“(2A) An appropriate relevant authority may, upon its own initiative, make a decision under paragraph 4 of Schedule 7 to the Act in any case to which regulation 10A of the Housing Benefit Regulations (decisions) applies where –

- (a) 52 weeks have elapsed since it last made a decision under regulation 10A of the Housing Benefit Regulations in relation to the claim or award in question, or
- (b) 52 weeks have elapsed since –
  - (i) a decision was made under sub-paragraph (a), or
  - (ii) a decision was made under this sub-paragraph,whichever last occurred.”.

(2) In regulation 8 of the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(38) (date from which a decision superseding an earlier decision takes effect) after paragraph (10) there shall be inserted the following paragraphs –

“(11) Except in a case where entitlement to housing benefit ceases, where an appropriate relevant authority has made a decision in exercise of regulation 10A of the Housing Benefit Regulations, any decision to which regulation 7(2A) applies shall take effect from the first day following the last day of the period mentioned in regulation 7(2A)(a) or (b).”.

Sealed with the Official Seal of the Department for Social Development on 6th June 2003.

L.S.

*John O'Neill*  
Senior Officer of the  
Department for Social Development

The Department of Finance and Personnel hereby consents to the foregoing Regulations.  
Sealed with the Official Seal of the Department of Finance and Personnel on 9th June 2003.

L.S.

*Rodney Scott*  
Senior Officer of the  
Department of Finance and Personnel

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(37) S.R. 2001 No. 213; relevant amending Regulations are S.R. 2002 No. 80 and S.R. 2003 No. 224

(38) Regulation 8 was amended by regulation 8(5) of S.R. 2002 No. 80 and paragraph (10) was added by regulation 4(3) of S.R. 2003 No. 224