
STATUTORY RULES OF NORTHERN IRELAND

2006 No. 406

The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006

PART IX

Claims

Who may claim

61.—(1) In the case of a couple or members of a polygamous marriage a claim shall be made by whichever one of them they agree should so claim or, in default of agreement, by such one of them as the relevant authority shall determine.

(2) Where a person who is liable to make payments in respect of a dwelling is unable for the time being to act, and—

- (a) a controller has been appointed by the High Court with power to claim, or as the case may be, receive benefit on his behalf; or
- (b) an attorney with a general power or a power to claim or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act (Northern Ireland) 1971(1) or the Enduring Powers of Attorney (Northern Ireland) Order 1987(2),

that controller or attorney, as the case may be, may make a claim on behalf of that person.

(3) Where a person who is liable to make payments in respect of a dwelling is unable for the time being to act and paragraph (2) does not apply to him, the relevant authority may, upon written application made to them by a person who, if an individual, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under the Act and to receive and deal on his behalf with any sums payable to him.

(4) Where the relevant authority has made an appointment under paragraph (3) or treated a person as an appointee under paragraph (5)—

- (a) it may at any time revoke the appointment;
- (b) the person appointed may resign his office after having given 4 weeks notice in writing to the relevant authority of his intention to do so;
- (c) any such appointment shall terminate when the relevant authority is notified that a controller or an attorney has been appointed.

(5) Where a person who is liable to make payments in respect of a dwelling is for the time being unable to act and the Department has appointed a person to act on his behalf for the purposes of the Act the relevant authority may if that person agrees treat him as if he had been appointed by them under paragraph (3).

(1) 1971 c. 33 (N.I.)

(2) S.I. 1987/1627 (N.I. 16)

(6) Anything required by these Regulations to be done by or to any person who is for the time being unable to act may be done by or to the controller or attorney, if any, or by or to the person appointed or treated as appointed under this regulation and the receipt of any such person so appointed shall be a good discharge to the relevant authority for any sum paid.

Time and manner in which claims are to be made

62.—(1) The prescribed time for claiming housing benefit is as regards any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to housing benefit, that day and the period of 12 months immediately following it.

(2) Every claim shall be in writing and made on a properly completed form approved for the purpose by the relevant authority or in such written form as the relevant authority may accept as sufficient in the circumstances of any particular case or class of cases having regard to the sufficiency of the written information and evidence.

(3) The forms approved for the purpose of claiming shall be provided free of charge by the relevant authority or such persons as they may authorise or appoint for the purpose.

(4) Each relevant authority shall notify the Department of the address to which claims delivered or sent to the appropriate office are to be forwarded.

(5) A claim—

- (a) may be sent or delivered to the appropriate office where the claimant or his partner is also claiming income support, state pension credit or a jobseeker’s allowance;
- (b) where it has not been sent or delivered to the appropriate office, shall be sent or delivered to the designated office;
- (c) sent or delivered to the appropriate office shall be forwarded to the relevant authority within 2 working days of the date of the receipt of the claim at the appropriate office, or as soon as practicable thereafter;
- (d) where the claimant has attained the qualifying age for entitlement to state pension credit , may be sent or delivered to an authorised office.

(6) Subject to paragraph (11), the date on which a claim is made shall be—

- (a) in a case where an award of state pension credit which comprises a guarantee credit has been made to the claimant or his partner and the claim for housing benefit is made within one month of the date on which the claim for state pension credit was received at the appropriate office, the first day of entitlement to state pension credit arising from that claim;
- (b) in a case where a claimant or his partner is a person in receipt of a guarantee credit and he becomes liable for the first time to make payments in respect of the dwelling which he occupies as his home, where the claim is received at the designated office or appropriate office within one month of the claimant first becoming liable for such payments, the date he became liable for those payments;
- (c) in a case where the claimant is the former partner of a person who was, at the date of his death or their separation, entitled to housing benefit and the claimant makes a claim within one month of the date of the death or the separation, that date;
- (d) except where sub-paragraph (a), (b) or (c) is satisfied, in a case where a properly completed claim is received in a designated office, an authorised office or an appropriate office within one month, or such longer period as the relevant authority considers reasonable, of the date on which the claim form was issued following the claimant first notifying, by whatever means, a designated office, an authorised office or an appropriate office of his intention of making a claim, the date of first notification; and

- (e) in any other case, the date on which the claim is received at the designated office, authorised office or appropriate office.
- (7) Where a claim received at the designated office has not been made in the manner prescribed in paragraph (2), that claim is for the purposes of these Regulations defective.
- (8) Where a claim is defective because—
 - (a) it was made on the form approved for the purpose but that form is not accepted by the relevant authority as being properly completed; or
 - (b) it was made in writing but not on the form approved for the purpose and the relevant authority does not accept the claim as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence,
the relevant authority may, in a case to which sub-paragraph (a) applies, request the claimant to complete the defective claim or, in the case to which sub-paragraph (b) applies, supply the claimant with the approved form or request further information or evidence.
- (9) The relevant authority shall treat a defective claim as if it had been validly made in the first instance if—
 - (a) where paragraph (8)(a) applies, the authority receives at the designated office the properly completed claim or the information requested to complete it or the evidence within one month of the request, or such longer period as the relevant authority may consider reasonable; or
 - (b) where paragraph (8)(b) applies—
 - (i) the approved form sent to the claimant is received at the designated office properly completed within one month of it having been sent to him; or, as the case may be,
 - (ii) the claimant supplies whatever information or evidence was requested under paragraph (8) within one month of the request,
or within such longer period as the relevant authority may consider reasonable.
- (10) A claim which is made on an approved form for the time being is, for the purposes of this regulation, properly completed if completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the claim.
- (11) Where the claimant is not entitled to housing benefit in the benefit week immediately following the date of his claim but the relevant authority is of the opinion that unless there is a change of circumstances he will be entitled to housing benefit for a period beginning not later than the seventeenth benefit week following the date on which the claim is made, the relevant authority may treat the claim as made on a date in the benefit week immediately preceding the first benefit week of that period of entitlement and award benefit accordingly.
- (12) Paragraph (11) applies in the case of a person who has attained, or whose partner has attained, the age of 59 years and 35 weeks.
- (13) Where the claimant makes a claim in respect of a past period (a “claim for backdating”) and, from a day in that period up to the date of the claim for backdating, he had continuous good cause for his failure to make a claim, his claim in respect of that period shall be treated as made on—
 - (a) the first day from which he had continuous good cause; or
 - (b) the day 52 weeks before the date of the claim for backdating,
whichever fell later.
- (14) In this regulation “authorised office” means an office which is nominated by the Department and authorised by the relevant authority for receiving claims for decision by the relevant authority.

Evidence and information

63.—(1) Subject to paragraph (2) and to paragraph 5 of Schedule A1(3) (treatment of claims for housing benefit by refugees), a person who makes a claim, or a person to whom housing benefit has been awarded, shall furnish such certificates, documents, information and evidence in connection with the claim or the award, or any question arising out of the claim or the award, as may reasonably be required by the relevant authority in order to determine that person's entitlement to, or continuing entitlement to, housing benefit and shall do so within one month of being required to do so or such longer period as the relevant authority may consider reasonable.

(2) Nothing in this regulation shall require a person to furnish any certificates, documents, information or evidence relating to a payment to which paragraph (4) applies.

(3) Where a request is made under paragraph (1), the relevant authority shall—

- (a) inform the claimant or the person to whom housing benefit has been awarded of his duty under regulation 65 to notify the designated office of any change of circumstances; and
- (b) without prejudice to the extent of the duty owed under regulation 65, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which is to be notified.

(4) This paragraph applies to any of the following payments—

- (a) a payment which is—
 - (i) disregarded under paragraph 24 of Schedule 6 to the Housing Benefit Regulations (income in kind) or paragraph 35 of Schedule 7 to those Regulations (certain payments in kind), and
 - (ii) made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, the Skipton Fund or the London Bombings Relief Charitable Fund;
- (b) a payment which is disregarded under paragraph 37 of Schedule 6 to the Housing Benefit Regulations or paragraph 25 of Schedule 7 to those Regulations (payments made under certain trusts and certain other payments), other than a payment made under the Independent Living Funds;
- (c) a payment which is disregarded under regulation 53(10)(b) or (c) other than a payment made under the Independent Living Funds.

(5) Where a claimant or a person to whom housing benefit has been awarded or any partner is aged not less than 60 and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, or is a party to, or a person deriving entitlement to a pension under, a retirement annuity contract, he shall where the relevant authority so requires furnish the following information—

- (a) the name and address of the pension fund holder;
- (b) such other information including any reference or policy number as is needed to enable the personal pension scheme or retirement annuity contract to be identified.

(6) Where the pension fund holder receives from a relevant authority a request for details concerning a personal pension scheme or retirement annuity contract relating to a person or any partner to whom paragraph (5) refers, the pension fund holder shall provide the relevant authority with any information to which paragraph (7) refers.

(7) The information to which this paragraph refers is—

- (a) where the purchase of an annuity under a personal pension scheme has been deferred, the amount of any income which is being withdrawn from the personal pension scheme;

(b) in the case of—

- (i) a personal pension scheme where income withdrawal is available, the maximum amount of income which may be withdrawn from the scheme, or
- (ii) a personal pension scheme where income withdrawal is not available, or a retirement annuity contract, the maximum amount of income which might be withdrawn from the fund if the fund were held under a personal pension scheme where income withdrawal was available,

calculated by or on behalf of the pension fund holder by means of tables prepared from time to time by the Government Actuary which are appropriate for this purpose.

Amendment and withdrawal of claim

64.—(1) A person who has made a claim may amend it at any time before a decision has been made on it, by a notice in writing delivered or sent to the designated office and any claim so amended shall be treated as if it had been amended in the first instance.

(2) A person who has made a claim may withdraw it at any time before a decision has been made on it, by notice to the designated office, and any such notice of withdrawal shall have effect when it is received.

Duty to notify changes of circumstances

65.—(1) Subject to paragraphs (2), (4) and (5), if at any time between the making of a claim and a decision being made on it, or during the award of housing benefit, there is a change of circumstances which the claimant, or any person by whom or on whose behalf sums payable by way of housing benefit are receivable, might reasonably be expected to know might affect the claimant's right to, the amount of or the receipt of housing benefit, that person shall be under a duty to notify that change of circumstances by giving notice in writing to the designated office.

(2) The duty imposed on a person by paragraph (1) does not extend to changes in—

- (a) the amount of rent and rates payable to the Executive;
- (b) the amount of rates payable to the Department of Finance and Personnel;
- (c) the age of the claimant or that of any member of his family or of any non-dependants;
- (d) these Regulations.

(3) Notwithstanding paragraph (2)(c) a claimant shall be required by paragraph (1) to notify the designated office of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he ceases to be a child or young person.

(4) A person on housing benefit who is also on state pension credit must report—

- (a) changes to his tenancy, but not changes in the amount of rent payable to the Executive;
- (b) changes affecting the residence or income of any non-dependant normally residing with the claimant or with whom the claimant normally resides;
- (c) any absence from the dwelling which exceeds or is likely to exceed 13 weeks.

(5) In addition to the changes required to be reported under paragraph (4) a person whose state pension credit comprises only a savings credit must also report—

- (a) changes affecting a child living with him which may result in a change in the amount of housing benefit payable in his case, but not changes in the age of the child;
- (b) any change in the amount of the claimant's capital to be taken into account which does or may take the amount of his capital to more than £16,000;

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- (c) any change in the income or capital of—
 - (i) a non-dependant whose income and capital are treated as belonging to the claimant in accordance with regulation 22, or
 - (ii) a person to whom regulation 25(4)(e) refers,
and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the claimant.
- (6) A person who is on housing benefit and on state pension credit need only report to the designated office the changes specified in paragraphs (4) and (5).