

2008 No. 285

HOUSING; RATES

**The Housing Benefit (Extended Payments) (Amendment)
Regulations (Northern Ireland) 2008**

Made - - - -

4th July 2008

Coming into operation -

6th October 2008

The Department for Social Development makes the following Regulations in exercise of the powers conferred by section 130(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and section 5(1) of the Social Security Administration (Northern Ireland) Act 1992(b), and now vested in it(c), and sections 32 and 33 of the Welfare Reform Act (Northern Ireland) 2007(d).

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

This Rule contains only regulations made by virtue of, or consequential upon, sections 32 and 33 of the Welfare Reform Act (Northern Ireland) 2007.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Extended Payments) (Amendment) Regulations (Northern Ireland) 2008 and shall come into operation on 6th October 2008.

(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 Housing Benefit Regulations

2.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(g) shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 2(1)(h) (interpretation)—

(a) 1992 c. 7

(b) 1992 c. 8; section 5(1) was amended by Article 3(1) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)) and Article 70 of, and Schedule 7 to, the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))

(c) See Article 8(b) of S.R. 1999 No. 481

(d) 2007 c. 2 (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; see also Article 6(b) of S.R. 1999 No. 481

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

(g) S.R. 2006 No. 405

(h) To which there are amendments not relevant to these Regulations

- (a) for the definition of “extended payment” substitute—
 - ““extended payment” means a payment of housing benefit payable pursuant to regulation 70;
 - “extended payment period” means the period for which an extended payment is payable in accordance with regulation 70A or 71A;”;
 - (b) for the definition of “extended payment (severe disablement allowance and incapacity benefit)” substitute—
 - ““extended payment (qualifying contributory benefits)” means a payment of housing benefit payable pursuant to regulation 71;”;
 - (c) omit the definition of “mover”; and
 - (d) after the definition of “the qualifying age for state pension credit” insert—
 - ““qualifying contributory benefit” means—
 - (a) severe disablement allowance;
 - (b) incapacity benefit;
 - “qualifying income-related benefit” means—
 - (a) income support;
 - (b) income-based jobseeker’s allowance;”.
- (3) In regulation 5 (persons who have attained the qualifying age for state pension credit)—
- (a) omit paragraph (2); and
 - (b) in paragraph (3) for “paragraphs (1) and (2)” substitute “paragraph (1)”.
- (4) For regulation 70 (extended payments) substitute—

“Extended Payments

70.—(1) A claimant who is entitled to housing benefit (by virtue of the general conditions of entitlement) shall be entitled to an extended payment where—

- (a) the claimant or the claimant’s partner was entitled to a qualifying income-related benefit;
- (b) entitlement to a qualifying income-related benefit ceased because the claimant or the claimant’s partner—
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment, or
 - (iii) increased the number of hours worked in such employment,
 and that employment is or, as the case may be, increased earnings or increased number of hours are expected to last 5 weeks or more; and
- (c) the claimant or the claimant’s partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker’s allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.

(2) For the purpose of this regulation, where a claimant or a claimant’s partner is entitled to and in receipt of joint-claim jobseeker’s allowance they shall be treated as being entitled to and in receipt of jobseeker’s allowance.

(3) A claimant must be treated as entitled to housing benefit by virtue of the general conditions of entitlement where—

- (a) the claimant ceased to be entitled to housing benefit because the claimant vacated the dwelling occupied as the claimant’s home;

- (b) the day on which the claimant vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed in paragraph (1)(b).

(4) This regulation shall not apply where, on the day before a claimant's entitlement to income support ceased, regulation 6(5) of the Income Support Regulations^(a) (remunerative work: housing costs) applied to that claimant.

Duration of extended payment period

70A.—(1) Where a claimant is entitled to an extended payment, the extended payment period starts on the first day of the benefit week immediately following the benefit week in which the claimant, or the claimant's partner, ceased to be entitled to a qualifying income-related benefit.

(2) For the purpose of paragraph (1), a claimant or a claimant's partner ceases to be entitled to a qualifying income-related benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended payment period ends—

- (a) at the end of a period of 4 weeks; or
- (b) on the date on which the claimant to whom the extended payment is payable has no liability for rent or rates, if that occurs first.

Amount of extended payment

70B.—(1) Subject to paragraphs (2) to (5), for any week during the extended payment period the amount of the extended payment payable to a claimant shall be the higher of the amount of housing benefit to which—

- (a) the claimant was entitled under the general conditions of entitlement in the last benefit week before the claimant or the claimant's partner ceased to be entitled to a qualifying income-related benefit;
- (b) the claimant would be entitled under the general conditions of entitlement for any benefit week during the extended payment period, if regulation 70 did not apply to the claimant; or
- (c) the claimant's partner would be entitled under the general conditions of entitlement, if regulation 70 did not apply to the claimant.

(2) Where the last benefit week referred to in paragraph (1)(a) fell, in whole or in part, within a rent and rate-free period, the last benefit week for the purposes of that paragraph is the last benefit week that did not fall within the rent and rate-free period.

(3) Where—

- (a) a claimant is entitled to an extended payment by virtue of regulation 70(3); and
- (b) the last benefit week before the claimant ceased to be entitled to a qualifying income-related benefit was a week in which the claimant's eligible rent or rates was calculated in accordance with regulation 78(4)(c),

the last benefit week for the purpose of calculating the amount of the extended payment under paragraph (1)(a) shall be the benefit week before the partial week.

(4) Where—

(a) Relevant amending Regulations are S.R. 2001 No. 78 and S.R. 2007 No. 475

- (a) a claimant was treated as occupying 2 dwellings as the claimant's home under regulation 7(6) at the time when the claimant's entitlement to a qualifying income-related benefit ceased; and
- (b) the claimant's liability to pay rent or rates for either of those dwellings ceases during the extended payment period,

the amount of the extended payment for any week shall be reduced by a sum equivalent to the housing benefit which was payable in respect of that dwelling.

(5) No extended payment is payable for any rent and rate-free period as defined in regulation 79(1)(a).

(6) Where a claimant is in receipt of an extended payment under this regulation and the claimant's partner makes a claim for housing benefit, no amount of housing benefit shall be payable by the appropriate authority during the extended payment period.

Relationship between extended payment and entitlement to housing benefit under the general conditions of entitlement

70C.—(1) Where a claimant's housing benefit award would have ended when the claimant ceased to be entitled to a qualifying income-related benefit in the circumstances listed in regulation 70(1)(b), that award will not cease until the end of the extended payment period.

(2) Part IX shall not apply to any extended payment payable in accordance with regulation 70B(1)(a)."

(5) For regulation 71 (extended payments (severe disablement allowance and incapacity benefit)) substitute—

“Extended payments (qualifying contributory benefits)

71.—(1) A claimant who is entitled to housing benefit (by virtue of the general conditions of entitlement) shall be entitled to an extended payment (qualifying contributory benefits) where—

- (a) the claimant or the claimant's partner was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the claimant or the claimant's partner—
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment, or
 - (iii) increased the number of hours worked in such employment,
 and that employment is or, as the case may be, increased earnings or increased number of hours are expected to last 5 weeks or more;
- (c) the claimant or the claimant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the claimant or the claimant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last benefit week in which the claimant, or the claimant's partner, was entitled to a qualifying contributory benefit.

(2) A claimant must be treated as entitled to housing benefit by virtue of the general conditions of entitlement where—

(a) Referred to in that regulation as a rent-free period

- (a) the claimant ceased to be entitled to housing benefit because the claimant vacated the dwelling occupied as the claimant's home;
- (b) the day on which the claimant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in paragraph (1)(b).

Duration of extended payment period (qualifying contributory benefits)

71A.—(1) Where a claimant is entitled to an extended payment (qualifying contributory benefits), the extended payment period starts on the first day of the benefit week immediately following the benefit week in which the claimant, or the claimant's partner, ceased to be entitled to a qualifying contributory benefit.

(2) For the purpose of paragraph (1), a claimant or a claimant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended payment period ends—

- (a) at the end of a period of 4 weeks; or
- (b) on the date on which the claimant to whom the extended payment (qualifying contributory benefits) is payable has no liability for rent or rates, if that occurs first.

Amount of extended payment (qualifying contributory benefits)

71B.—(1) Subject to paragraphs (2) to (5), for any week during the extended payment period the amount of the extended payment (qualifying contributory benefits) payable to a claimant shall be the higher of the amount of housing benefit to which—

- (a) the claimant was entitled under the general conditions of entitlement in the last benefit week before the claimant or the claimant's partner ceased to be entitled to a qualifying contributory benefit;
- (b) the claimant would be entitled under the general conditions of entitlement for any benefit week during the extended payment period, if regulation 71 did not apply to the claimant; or
- (c) the claimant's partner would be entitled under the general conditions of entitlement, if regulation 71 did not apply to the claimant.

(2) Where the last benefit week referred to in paragraph (1)(a) fell, in whole or in part, within a rent and rate-free period, the last benefit week for the purposes of that paragraph is the last benefit week that did not fall within the rent and rate-free period.

(3) Where—

- (a) a claimant is entitled to an extended payment (qualifying contributory benefits) by virtue of regulation 71(2); and
- (b) the last benefit week before the claimant ceased to be entitled to a qualifying contributory benefit was a week in which the claimant's eligible rent or rates was calculated in accordance with regulation 78(4)(c),

the last benefit week for the purpose of calculating the amount of the extended payment (qualifying contributory benefits) under paragraph (1)(a) shall be the benefit week before the partial week.

(4) Where—

- (a) a claimant was treated as occupying 2 dwellings as the claimant's home under regulation 7(6) at the time when the claimant's entitlement to a qualifying contributory benefit ceased; and

- (b) the claimant's liability to pay rent or rates for either of those dwellings ceases during the extended payment period,

the amount of the extended payment (qualifying contributory benefits) for any week shall be reduced by a sum equivalent to the housing benefit which was payable in respect of that dwelling.

(5) No extended payment (qualifying contributory benefits) is payable for any rent and rate-free period as defined in regulation 79(1).

(6) Where a claimant is in receipt of an extended payment (qualifying contributory benefits) under this regulation and the claimant's partner makes a claim for housing benefit, no amount of housing benefit shall be payable by the appropriate authority during the extended payment period.

Relationship between extended payment (qualifying contributory benefits) and entitlement to housing benefit under the general conditions of entitlement

71C.—(1) Where a claimant's housing benefit award would have ended when the claimant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in regulation 71(1)(b), that award will not cease until the end of the extended payment period.

(2) Part IX shall not apply to any extended payment (qualifying contributory benefits) payable in accordance with regulation 71B(1)(a)."

(6) Omit—

- (a) regulation 75 (date on which housing benefit is to end);
- (b) regulation 76 (date on which housing benefit is to end where entitlement to severe disablement allowance or incapacity benefit ceases);
- (c) regulation 78(7) (calculation of weekly amounts);
- (d) regulation 85(3) (decisions by a relevant authority);
- (e) Schedule 8 (extended payments of housing benefit); and
- (f) Schedule 9 (extended payments (severe disablement allowance and incapacity benefit) of housing benefit).

(7) In Schedule 10 (matters to be included in decision notice)—

- (a) in the heading to Part II after "jobseeker's allowance" insert ", an extended payment or an extended payment (qualifying contributory benefits)"; and
- (b) in paragraph 9 after "is awarded housing benefit" insert "or a claimant is entitled to an extended payment in accordance with regulation 70 or an extended payment (qualifying contributory benefits) in accordance with regulation 71".

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

3.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(a) shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(1)(b) (interpretation)—

- (a) for the definition of "extended payment (severe disablement allowance and incapacity benefit)" substitute—

(a) S.R. 2006 No. 406

(b) To which there are amendments not relevant to these Regulations

““extended payment (qualifying contributory benefits)” means a payment of housing benefit payable pursuant to regulation 51 of these Regulations or regulation 71 of the Housing Benefit Regulations (extended payments (qualifying contributory benefits));

“extended payment period” means the period for which an extended payment is payable in accordance with regulation 51A of these Regulations or regulation 70A (duration of extended payment period) or 71A (duration of extended payment period (qualifying contributory benefits)) of the Housing Benefit Regulations;”;

(b) after the definition of “the qualifying age for state pension credit” insert—

““qualifying contributory benefit” means—

(a) severe disablement allowance;

(b) incapacity benefit;”;

(c) after the definition of “qualifying course” insert—

““qualifying income-related benefit” means—

(a) income support;

(b) income-based jobseeker’s allowance;”.

(3) For regulation 50 (reduction where amount payable under regulation 70 of the Housing Benefit Regulations) substitute—

“Amount payable during extended payment period when an extended payment is payable pursuant to regulation 70 or 71 of the Housing Benefit Regulations

50.—(1) This regulation applies where—

(a) a claimant became entitled to an extended payment pursuant to regulation 70 of the Housing Benefit Regulations or an extended payment (qualifying contributory benefits) pursuant to regulation 71 of those Regulations; and

(b) during the extended payment period, these Regulations become applicable to the claimant or the claimant’s partner in accordance with regulation 5.

(2) Where this regulation applies, the amount of the extended payment or extended payment (qualifying contributory benefits) payable to a claimant for any week during the extended payment period shall be the higher of—

(a) the amount of the extended payment payable in accordance with regulation 70B(1)(a) of the Housing Benefit Regulations or the extended payment (qualifying contributory benefits) payable in accordance with regulation 71B(1)(a) of those Regulations, as the case may be;

(b) the amount of housing benefit to which a claimant would be entitled under the general conditions of entitlement of these Regulations, if regulation 70 or 71 of the Housing Benefit Regulations did not apply to the claimant; or

(c) the amount of housing benefit to which the claimant’s partner would be entitled under the general conditions of entitlement of these Regulations, if regulation 70 or 71 of the Housing Benefit Regulations did not apply to the claimant.

(3) Where this regulation applies, no amount of housing benefit shall be payable by the appropriate authority during the extended payment period to a claimant’s partner under these Regulations for any week in the extended payment period.”.

(4) For regulation 51 (extended payments (severe disablement allowance and incapacity benefit)) substitute—

“Extended payments (qualifying contributory benefits)

51.—(1) Except in the case of a claimant who is in receipt of state pension credit, a claimant who is entitled to housing benefit (by virtue of the general conditions of

entitlement) shall be entitled to an extended payment (qualifying contributory benefits) where—

- (a) the claimant or the claimant's partner was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the claimant or the claimant's partner—
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment, or
 - (iii) increased the number of hours worked in such employment,and that employment is or, as the case may be, increased earnings or increased number of hours are expected to last 5 weeks or more;
- (c) the claimant or the claimant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the claimant or the claimant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last benefit week in which the claimant, or the claimant's partner, was entitled to a qualifying contributory benefit.

(2) A claimant must be treated as entitled to housing benefit by virtue of the general conditions of entitlement where—

- (a) the claimant ceased to be entitled to housing benefit because the claimant vacated the dwelling occupied as the claimant's home;
- (b) the day on which the claimant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in paragraph (1)(b).

Duration of extended payment period (qualifying contributory benefits)

51A.—(1) Where a claimant is entitled to an extended payment (qualifying contributory benefits), the extended payment period starts on the first day of the benefit week immediately following the benefit week in which the claimant, or the claimant's partner, ceased to be entitled to a qualifying contributory benefit.

(2) For the purpose of paragraph (1), a claimant or a claimant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended payment period ends—

- (a) at the end of a period of 4 weeks; or
- (b) on the date on which the claimant to whom the extended payment (qualifying contributory benefits) is payable has no liability for rent or rates, if that occurs first.

Amount of extended payment (qualifying contributory benefits)

51B.—(1) Subject to the paragraphs (2) to (5), for any week during the extended payment period the amount of the extended payment (qualifying contributory benefits) payable to a claimant shall be the higher of the amount of housing benefit to which—

- (a) the claimant was entitled under the general conditions of entitlement in the last benefit week before the claimant or the claimant's partner ceased to be entitled to a qualifying contributory benefit;

- (b) the claimant would be entitled under the general conditions of entitlement for any benefit week during the extended payment period, if regulation 51 did not apply to the claimant; or
- (c) the claimant's partner would be entitled under the general conditions of entitlement, if regulation 51 did not apply to the claimant.

(2) Where the last benefit week referred to in paragraph (1)(a) fell, in whole or in part, within a rent and rate-free period, the last benefit week for the purposes of that paragraph is the last benefit week that did not fall within the rent and rate-free period.

(3) Where—

- (a) a claimant is entitled to an extended payment (qualifying contributory benefit) by virtue of regulation 51(2); and
- (b) the last benefit week before the claimant ceased to be entitled to a qualifying contributory benefit was a week in which the claimant's eligible rent or rates was calculated in accordance with regulation 59(4)(c),

the last benefit week for the purpose of calculating the amount of the extended payment (qualifying contributory benefits) under paragraph (1)(a) shall be the benefit week before the partial week.

(4) Where—

- (a) a claimant was treated as occupying 2 dwellings as the claimant's home under regulation 7(6) at the time when the claimant's entitlement to a qualifying contributory benefit ceased; and
- (b) the claimant's liability to pay rent or rates for either of those dwellings ceases during the extended payment period,

the amount of the extended payment (qualifying contributory benefits) for any week shall be reduced by a sum equivalent to the housing benefit which was payable in respect of that dwelling.

(5) No extended payment (qualifying contributory benefits) is payable for any rent and rate-free period as defined in regulation 60(1)(a).

(6) Where a claimant is in receipt of an extended payment (qualifying contributory benefits) under this regulation and the claimant's partner makes a claim for housing benefit, no amount of housing benefit shall be payable by the appropriate authority during the extended payment period.

Relationship between extended payment (qualifying contributory benefits) and entitlement to housing benefit under the general conditions of entitlement

51C.—(1) Where a claimant's housing benefit award would have ended when the claimant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in regulation 51(1)(b), that award will not cease until the end of the extended payment period.

(2) Part VIII shall not apply to any extended payment (qualifying contributory benefits) payable in accordance with regulation 51B(1)(a).”.

(5) Omit—

- (a) regulation 56 (date on which housing benefit is to end where entitlement to severe disablement allowance or incapacity benefit ceases);
- (b) regulation 59(8) (calculation of weekly amounts);
- (c) regulation 66(3) (decisions by a relevant authority); and
- (d) Schedule 8 (extended payments (severe disablement allowance and incapacity benefit) of housing benefit).

(a) Referred to in that regulation as a rent-free period

(6) In Schedule 9 (matters to be included in decision notice)—

(a) in the heading to Part II after “state pension credit” insert “or an extended payment (qualifying contributory benefits)”; and

(b) after paragraph 9(2) add—

“(3) Where a claimant is entitled to an extended payment (qualifying contributory benefits) in accordance with regulation 51, the decision notice shall include a statement as to the matters set out in paragraph 9(1).”.

Sealed with the Official Seal of the Department for Social Development on 4th July 2008

(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 4th July 2008

(L.S.)

Adrian Arbuthnot

A senior officer of the Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit Regulations (Northern Ireland) 2006 (“the Housing Benefit Regulations”) and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (“the Housing Benefit (State Pension Credit) Regulations”) so as to include new provision for extended payments.

Extended payments are payments of housing benefit which are payable for a limited period in certain circumstances where a claimant or the claimant’s partner has ceased to be entitled to a qualifying income-related benefit or a qualifying contributory benefit.

Regulation 2 amends the Housing Benefit Regulations. Regulation 2(4) relates to extended payments for those who come off a qualifying income-related benefit and substitutes regulations 70 to 70C for regulation 70 of the Housing Benefit Regulations. The new regulation 70 sets out when an extended payment of housing benefit is payable, regulation 70A provides the period during which the claimant will be entitled to the extended payment (known as the extended payment period), regulation 70B provides how the extended payment will be calculated and regulation 70C provides how the extended payment relates to the underlying housing benefit entitlement. Regulation 2(5) relates to equivalent extended payments for those who come off a qualifying contributory benefit and substitutes regulations 71 to 71C for regulation 71. Regulation 2(2), (3), (6) and (7) makes consequential amendments.

Regulation 3 makes amendments to the Housing Benefit (State Pension Credit) Regulations, equivalent to those made by regulation 2(5), for those who come off a qualifying contributory benefit and also makes consequential amendments.

Sections 32 and 33 of the Welfare Reform Act (Northern Ireland) 2007, some of the enabling provisions under which these Regulations are made, were brought into operation for the purpose only of authorising the making of regulations on 1st July 2008, and for all other purposes on 6th October 2008, by virtue of the Welfare Reform (2007 Act) (Commencement No. 5) Order (Northern Ireland) 2008 (S.R. 2008 No. 276 (C. 14)). As these Regulations are made by virtue of, or are consequential upon, those sections and are made before the end of the period of 6 months of the coming into operation of those sections they are, accordingly, exempt, by virtue of section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992, from prior reference to the Social Security Advisory Committee.

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