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## STATUTORY INSTRUMENTS

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# 2001 No. 1002

## The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

### PART II

#### REVISIONS AND SUPERSESSIONS

##### Revision of decisions

4.—(1) Subject to the provisions in this regulation, a relevant decision (“the original decision”) may be revised or further revised by the relevant authority which made the decision where—

- (a) [<sup>F1</sup>subject to regulation 10A(3),] the person affected makes an application for a revision within—
  - (i) one month of the date of notification of the original decision; or
  - (ii) such extended time as the relevant authority may allow under regulation 5;
- (b) within one month of the date of notification of the original decision that authority has information which is sufficient to show that the original decision was made in ignorance of, or was based upon a mistake as to, some material fact; or
- (c) an appeal is made under paragraph 6 of Schedule 7 to the Act against the original decision within the time prescribed in regulation 18 or, in a case to which regulation 19 applies the time prescribed in that regulation, but the appeal has not been determined.

(2) An original decision may be revised or further revised by the relevant authority which made the decision, at any time by that authority, where that decision—

- (a) arose from an official error; or
- (b) was made in ignorance of, or was based upon a mistake as to, some material fact and as a result of that ignorance of or mistake as to that fact, the decision was more advantageous to the person affected than it would otherwise have been but for that ignorance or mistake.

(3) Notwithstanding the provisions in paragraph (1), a relevant decision which adopts a rent officer’s determination [<sup>F2</sup>, board and attendance determination, broad rental market area determination or local housing allowance determination] may be revised or further revised by the relevant authority which made the decision at any time in consequence of a rent officer’s redetermination, substitute determination [<sup>F3</sup>substitute redetermination, board and attendance redetermination, substitute board and attendance determination, substitute board and attendance redetermination, amended broad rental market area determination or amended local housing allowance determination] made under the Rent Officers (Housing Benefit Functions) Order 1997 <sup>M1</sup> or the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 <sup>M2</sup> which resulted in an increase in the amount which represents the rent for the purposes of calculating entitlement to benefit.

(4) For the purposes of calculating the period in paragraph (1)(a)(i), where a written statement is requested under regulation 10, no account shall be taken of any period beginning with the day on

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which the relevant authority received the request for a statement and ending with the day on which that statement was provided to that person.

(5) Where the relevant authority requires further evidence or information in order to consider all the issues raised by an application under paragraph (1)(a) (“the original application”), that authority shall notify the applicant that further evidence or information is required and, if it does so, the decision may be revised—

- (a) where the evidence or information so requested is provided within one month of the date of the notification or such longer period as the relevant authority may allow; or
- (b) where such evidence or information is not provided within the period referred to in sub-paragraph (a), on the basis of the original application.

(6) A relevant decision that is prescribed under paragraph 6(2)(e) or (4)(a) of Schedule 7 to the Act may be revised at any time.

(7) A relevant decision made in respect of a claim or an award may be revised where—

- (a) a decision in respect of that claim or that award is given by an appeal tribunal, Commissioner or court on appeal against a decision (“decision A”);
- (b) the relevant decision was made after decision A; and
- (c) the relevant decision would have been made differently had the relevant authority been aware of that appeal decision at the time it made the relevant decision.

[<sup>F4</sup>(7A) Where a court convicts a person of an offence, that conviction results in a restriction being imposed under section 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions) and that conviction is quashed or set aside by that or any other court, a decision of the relevant authority made in accordance with regulation 7(2)(g) or (h) may be revised at any time.]

[<sup>F5</sup>(7B) Where—

- (a) the relevant authority makes an original decision awarding housing benefit or council tax benefit to a claimant; and
- (b) entitlement to a relevant benefit within the meaning of section 8(3) of the 1998 Act or to an increase in the rate of that relevant benefit is awarded to the claimant or a member of his family for a period which includes the date on which the original decision took effect,

the relevant authority may revise or further revise that original decision at any time.

(7C) Where entitlement to housing benefit or council tax benefit has ceased (“decision A”) because entitlement to a relevant benefit within the meaning of section 8(3) of the 1998 Act has ceased (“decision B”), decision A may be revised at any time if the entitlement to the relevant benefit to which decision B applies has been reinstated in consequence of a decision made under section 9 or 10 of the 1998 Act or on an appeal under section 12 of that Act]

[<sup>F6</sup>(7D) Where—

- (a) a person elects for an increase of—
  - (i) a Category A or Category B retirement pension in accordance with paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act (pension increase or lump sum where entitlement to retirement pension is deferred);
  - (ii) a shared additional pension in accordance with paragraph 1 of Schedule 5A to that Act (pension increase or lump sum where entitlement to shared additional pension is deferred); or, as the case may be,
  - (iii) graduated retirement benefit in accordance with paragraph 12 or 17 of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005 (further provisions replacing section 36(4) of the National Insurance Act 1965: increases of graduated retirement benefit and lump sums);

- (b) the relevant authority decides that the person or his partner is entitled to housing benefit or council tax benefit and takes into account the increase of pension or benefit in making or superseding that decision; and
- (c) the person's election for an increase is changed so that he is entitled to a lump sum, the relevant authority may revise the housing benefit or council tax benefit decision.]

[<sup>F7</sup>(7E) Where a court makes an order under section 71 of the Antisocial Behaviour etc. (Scotland) Act 2004 and that order is set aside by the sheriff principal following an appeal under section 72(1) of that Act, a decision made in accordance with regulation 7(2)(a) may be revised at any time.

(7F) Where a local authority has served a notice in accordance with section 94 of the Antisocial Behaviour etc. (Scotland) Act 2004 and that notice is set aside by a court following an appeal under section 97(1) of that Act, a decision made in accordance with regulation 7(2)(a) may be revised at any time.]

[<sup>F8</sup>(7G) Where the court makes a relevant order for possession, as defined in section 130C of the Contributions and Benefits Act (relevant orders for possession) and the order is set aside, a decision in accordance with regulation 7(2)(k) may be revised at any time.]

(8) An application for a revision shall be made in writing and delivered, by whatever means, to the relevant authority <sup>F9</sup>....

(9) The relevant authority may treat an application for a supersession as an application for a revision.

(10) Paragraph (1) shall not apply in respect of a change of circumstances which occurred since the decision [<sup>F10</sup>had effect] or where the relevant authority has evidence or information which indicates that a relevant change of circumstances will occur.

#### Textual Amendments

- F1** Words in reg. 4(1)(a) inserted (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379), regs. 1(1), **24**
- F2** Words in reg. 4(3) inserted (17.11.2003 reg. 1(1), Sch. 1) by Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2003 (S.I. 2003/2399), **reg. 16(2)**
- F3** Words in reg. 4(3) substituted (17.11.2003 reg. 1(1), Sch. 1) by Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2003 (S.I. 2003/2399), **reg. 16(3)**
- F4** Reg. 4(7A) inserted (1.4.2002) by Social Security (Loss of Benefit) (Consequential Amendments) Regulations 2002 (S.I. 2002/490), regs. 1(1), **9(a)**
- F5** Reg. 4(7B)-(7C) inserted (6.10.2003) by The Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2275), regs. 1(1)(b), **5(3)**
- F6** Reg. 4(7D) inserted (6.4.2006) by Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 (S.I. 2005/2677), regs. 1(1), **10(2)**
- F7** Reg. 4(7E)(7F) inserted (3.4.2006) by The Housing Benefit (Amendment) Regulations 2006 (S.I. 2006/644), regs. 1, **4**
- F8** Reg. 4(7G) inserted (1.11.2007 for specified purposes) by Housing Benefit (Loss of Benefit) (Pilot Scheme)(Supplementary) Regulations 2007 (S.I. 2007/2474), regs. 1, 3, **8(b)**
- F9** Words in reg. 4(8) omitted (30.9.2002) by virtue of Social Security (Jobcentre Plus Interviews) Regulations 2002 (S.I. 2002/1703), reg. 1, **Sch. 2 para. 8(b)**
- F10** Words in reg. 4(10) substituted (18.3.2005) by The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337), regs. 1, **3(2)**

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#### **Modifications etc. (not altering text)**

- C1** Reg. 4(1)(a) excluded (2.7.2001) by [The Housing Benefit and Council Tax Benefit \(Decisions and Appeals\) \(Transitional and Savings\) Regulations 2001 \(S.I. 2001/1264\)](#), regs. 1(1), **2(1)**

#### **Marginal Citations**

- M1** [S.I. 1997/1984](#), amended by [S.I. 2000/1](#).  
**M2** [S.I. 1997/1995](#), amended by [S.I. 2000/3](#).

### **Late application for a revision**

5.—(1) The time limit for making an application for a revision specified in regulation 4 may be extended where the conditions specified in the following paragraphs of this regulation are satisfied.

(2) An application for an extension of time (“the application”) shall be made in writing by the person affected by a relevant decision.

(3) The application shall—

- (a) contain particulars of the grounds on which the extension of time is sought and shall contain sufficient details of the decision which it is sought to have revised to enable that decision to be identified;
- (b) [<sup>F11</sup>subject to regulation 4(4),] be made within 13 months of the date of notification of the decision which it is sought to have revised; and
- (c) be delivered, by whatever means, to the relevant authority<sup>F12</sup>....

(4) The application shall not be granted unless the person affected satisfies the relevant authority that—

- (a) it is reasonable to grant the application;
- (b) the application for revision has merit; and
- (c) special circumstances are relevant to the application and as a result of those special circumstances it was not practicable for the application to be made within the time limit specified in regulation 4.

(5) In determining whether it is reasonable to grant the application for an extension of time, no account shall be taken of the following—

- (a) that the person affected was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or
- (b) that a Commissioner or a court has taken a different view of the law from that previously understood and applied.

(6) In determining whether it is reasonable to grant an application, the relevant authority shall have regard to the principle that the greater the amount of time that has elapsed between the expiration of the time specified in regulation 4 for applying for a revision and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

(7) An application under this regulation for an extension of time which has been refused may not be renewed.

#### **Textual Amendments**

- F11** Words in reg. 5(3)(b) inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **3(3)**

**F12** Words in reg. 5(3)(c) omitted (30.9.2002) by virtue of Social Security (Jobcentre Plus Interviews) Regulations 2002 (S.I. 2002/1703), reg. 1, Sch. 2 para. 8(c)

**Date from which a revision takes effect**

6. Where, on a revision under paragraph 3 of Schedule 7 to the Act, the relevant authority decides that the date from which a relevant decision (“the original decision”) took effect was erroneous, the decision under that paragraph shall take effect on the date the original decision would have taken effect had the error not been made.

**Decisions superseding earlier decisions**

7.—(1) Subject to the provisions in this regulation, the prescribed cases and circumstances in which a decision may be made under paragraph 4 of Schedule 7 to the Act (decisions superseding earlier decisions) are as set out in paragraph (2).

(2) The appropriate relevant authority may make a decision under paragraph 4 of Schedule 7 to the Act upon its own initiative or on an application made for the purpose on the basis that the decision to be superseded is a decision—

- (a) in respect of which—
  - (i) there has been a change of circumstances [<sup>F13</sup>since the decision had effect ]; or
  - (ii) it is anticipated that a change of circumstances will occur;
- (b) which is erroneous in point of law or made in ignorance of, or was based upon a mistake as to, some material fact provided that the decision—
  - (i) cannot be revised on the basis of that error, ignorance or mistake; and
  - (ii) is not a decision prescribed in regulations under paragraph 6(2)(e) or (4)(a) of Schedule 7 to the Act;
- (c) which adopts a rent officer’s determination [<sup>F14</sup>, board and attendance determination, broad rental market area determination or local housing allowance determination] and in consequence of a rent officer’s redetermination, substitute determination [<sup>F15</sup>substitute redetermination, board and attendance redetermination, substitute board and attendance determination, substitute board and attendance redetermination, amended broad rental market area determination or amended local housing allowance determination] made under the Rent Officers (Housing Benefit Functions) Order 1997 or the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 the amount which represents the rent for the purposes of calculating entitlement to benefit is reduced;
- (d) [<sup>F16</sup>of an appeal tribunal or of a Commissioner—
  - (i) that was made in ignorance of, or was based upon a mistake as to, some material fact; or
  - (ii) that was made in accordance with paragraph 17(4)(b) of Schedule 7 to the Act, in a case where paragraph 17(5) of that Schedule to the Act applies;]
- (e) which is prescribed in regulations made under paragraph 6(2)(e) or (4)(a) of Schedule 7 to the Act;
- <sup>F17</sup>(f) .....
- <sup>F18</sup>(g) which is affected by a decision of the Secretary of State that a sanctionable benefit payable to a claimant ceases to be payable or falls to be reduced under section 7 or 9 of the Social Security Fraud Act 2001 and for this purpose “sanctionable benefit” has the same meaning as in section 7 of that Act; or

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(h) which is affected by a decision of the Secretary of State that a joint-claim jobseeker’s allowance ceases to be payable or falls to be reduced under section 8 of the Social Security Fraud Act 2001.]

[<sup>F19</sup>(i) where—

- (i) the claimant has been awarded entitlement to housing benefit or council tax benefit; and
- (ii) subsequent to the first day of the period to which that entitlement relates, the claimant or a member of his family becomes entitled to an award of a relevant benefit within the meaning of section 8(3) of the 1998 Act or an increase in the rate of that relevant benefit.]

[<sup>F20</sup>(j) where—

- (i) the claimant or his partner makes, or is treated as having made, an election for a lump sum in accordance with—
  - (aa) paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act;
  - (bb) paragraph 1 of Schedule 5A to that Act; or, as the case may be,
  - (cc) paragraph 12 or 17 of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005;

or

(ii) such a lump sum is repaid in consequence of an application to change an election for a lump sum in accordance with regulation 5 of the Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 or, as the case may be, paragraph 20D of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005.]

[<sup>F21</sup>(k) that housing benefit is payable to a claimant where that benefit is reduced under regulation 4 of the Pilot Scheme Regulations (reduction of benefit);

- (l) made under sub-paragraph (k) and the claimant is a person in hardship under regulation 5 of the Pilot Scheme Regulations (meaning of “person in hardship”);
- (m) made under sub-paragraph (k) or (l) where section 130B(6) of the Contributions and Benefits Act applies so that the restriction period under that section stops running;
- (n) made under sub-paragraph (m) where section 130B(6) of that Act applies so that the restriction period starts running again.]

[<sup>F22</sup>(2ZA) 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 [<sup>F23</sup>regulation 14(1)(f) or (g) of the Housing Benefit Regulations or regulation 14(1)(f) or (g) of the Housing Benefit (State Pension Credit) Regulations] (requirement to refer to rent officers) applies.]

<sup>F24</sup>(2A) .....

[<sup>F25</sup>(2B) The appropriate relevant authority may make a decision under paragraph 4 of Schedule 7 to the Act upon its own initiative on the basis that the decision to be superseded is a decision in respect of which the maximum housing benefit would cease to have effect by virtue of [<sup>F26</sup>“regulation 11A of the Housing Benefit Regulations or regulation 11A of the Housing Benefit (State Pension Credit) Regulations (cases where maximum housing benefit expires)”];] but for the decision made in accordance with this regulation.

(2C) For the purposes of paragraph (2B) and paragraph (15) of regulation 8 “maximum housing benefit” means the maximum housing benefit determined in accordance with regulations made under section 130(4) of the Social Security Contributions and Benefits Act 1992.]

(3) The reference to a change of circumstances in paragraph (2)(a) shall include changes of circumstances specified in [<sup>F27</sup>regulation 88(3) of the Housing Benefit Regulations, regulation 69(3) of the Housing Benefit (State Pension Credit) Regulations, regulation 74(3) of the Council Tax Benefit Regulations or regulation 59(3) of the Council Tax Benefit (State Pension Credit) Regulations (changes of circumstances which do not need to be notified).]

(4) A decision which may be revised under regulation 4 may not be superseded under this regulation except where—

- (a) circumstances arise in which the appropriate relevant authority may revise that decision under regulation 4; and
- (b) further circumstances arise in relation to that decision which are not specified in regulation 4 but are specified in paragraph (2) or (5).

(5) Where the appropriate relevant authority requires further evidence or information from the applicant in order to consider all the issues raised by an application under paragraph (2) (“the original application”), the authority shall notify the applicant that further evidence or information is required and, if it does so, the decision may be superseded—

- (a) where the applicant provides further relevant evidence or information within one month of the date of notification or such longer period of time as the appropriate relevant authority may allow; or
- (b) where the applicant does not provide such evidence or information within the time allowed under sub-paragraph (a), on the basis of the original application.

(6) The appropriate relevant authority may treat an application for a revision or a notification of a change of circumstances as an application for a supersession.

(7) An application under this regulation shall be made in writing and delivered, by whatever means, to the relevant authority<sup>F28</sup>....

### Textual Amendments

- F13** Words in reg. 7(2)(a)(i) inserted (5.5.2003) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1050\)](#), regs. 1(1)(a), **4(1)(a)** (with reg. 6)
- F14** Words in reg. 7(2)(c) inserted (17.11.2003 reg. 1(1), Sch. 1) by [Housing Benefit \(General\) \(Local Housing Allowance\) Amendment Regulations 2003 \(S.I. 2003/2399\)](#), **reg. 16(2)**
- F15** Words in reg. 7(2)(c) substituted (17.11.2003 reg. 1(1), Sch. 1) by [Housing Benefit \(General\) \(Local Housing Allowance\) Amendment Regulations 2003 \(S.I. 2003/2399\)](#), **reg. 16(3)**
- F16** Reg. 7(2)(d) substituted (5.5.2003) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1050\)](#), regs. 1(1)(a), **4(1)(b)** (with reg. 6)
- F17** Reg. 7(2)(f) omitted (30.9.2002) by virtue of [Social Security \(Jobcentre Plus Interviews\) Regulations 2002 \(S.I. 2002/1703\)](#), reg. 1, **Sch. 2 para. 8(d)(i)**
- F18** Reg. 7(2)(g)(h) added (1.4.2002) by [Social Security \(Loss of Benefit\) \(Consequential Amendments\) Regulations 2002 \(S.I. 2002/490\)](#), regs. 1(1), **9(b)**
- F19** Reg. 7(2)(i) added (6.10.2003) by [The Housing Benefit and Council Tax Benefit \(State Pension Credit and Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2275\)](#), regs. 1(1)(b), **5(4)**
- F20** Reg. 7(2)(j) inserted (6.4.2006) by [Social Security \(Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit\) \(Miscellaneous Provisions\) Regulations 2005 \(S.I. 2005/2677\)](#), regs. 1(1), **10(3)**
- F21** Reg. 7(2)(k)-(n) added (1.11.2007 for specified purposes) by [Housing Benefit \(Loss of Benefit\) \(Pilot Scheme\)\(Supplementary\) Regulations 2007 \(S.I. 2007/2474\)](#), regs. 1, 3, **8(c)**
- F22** Reg. 7(2ZA) inserted (5.4.2004) by [Housing Benefit and Council Tax Benefit \(Abolition of Benefit Periods\) Amendment Regulations 2004 \(S.I. 2004/14\)](#), regs. 1(1), **34(1)** (with reg. 27)

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- F23** Words in reg. 7(2ZA) substituted (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 17(3)(b)(i)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F24** Reg. 7(2A) revoked (24.9.2007) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2007 \(S.I. 2007/2470\)](#), regs. 1, **8**
- F25** Reg. 7(2B)-(2C) inserted (17.11.2003 reg. 1(1), Sch. 1) by [Housing Benefit \(General\) \(Local Housing Allowance\) Amendment Regulations 2003 \(S.I. 2003/2399\)](#), **reg. 16(4)**
- F26** Words in reg. 7(2B) substituted (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 17(3)(b)(ii)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F27** Words in reg. 7(3) substituted (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 17(3)(b)(iii)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F28** Words in reg. 7(7) omitted (30.9.2002) by virtue of [Social Security \(Jobcentre Plus Interviews\) Regulations 2002 \(S.I. 2002/1703\)](#), reg. 1, **Sch. 2 para. 8(d)(ii)**

### **Date from which a decision superseding an earlier decision takes effect**

**8.—(1)** A decision made by virtue of paragraph 4 of Schedule 7 to the Act (“the superseding decision”) shall take effect on a date other than the date on which it is made or the date on which the application was made in the cases or circumstances prescribed in paragraphs (2) to (7).

(2) Subject to paragraphs (3) and (6), where the superseding decision is made on the ground that there has been, or it is anticipated that there will be, a change of circumstances, the superseding decision shall take effect on the date on which the change of circumstances is to take effect [<sup>F29</sup>in accordance with—

- (a) regulation 79 of the Housing Benefit Regulations;
- (b) regulation 59 or 60 of the Housing Benefit (State Pension Credit) Regulations;
- (c) regulation 67 of the Council Tax Benefit Regulations; or
- (d) regulation 50 or 51 of the Council Tax Benefit (State Pension Credit) Regulations

as the case may be.]

(3) For the purposes of determining the date on which a superseding decision is to take effect in accordance with paragraph (2), in a case where—

- (a) the change of circumstances is a change of circumstances that is required by regulations to be notified, other than any change of circumstances to which regulation 68A [<sup>F30</sup>or 68B] of the Housing Benefit Regulations or regulation 59A [<sup>F30</sup>or 59B] of the Council Tax Benefit Regulations applies; and
- (b) that change of circumstances is notified more than one month after it occurs, or such longer period as may be allowed under regulation 9; and
- (c) the superseding decision is advantageous to the claimant,

the date of notification of the change of circumstances shall be treated as the date on which the change of circumstances occurred.

(4) Where the superseding decision is advantageous to the claimant and is made on the ground that the superseded decision was made in ignorance of, or was based upon a mistake as to, some material fact, the superseding decision shall take effect from the first day of the benefit week in which—

- (a) except where sub-paragraph (b) applies, the appropriate relevant authority first has information which is sufficient to show that the superseded decision was made in ignorance of, or was based upon a mistake as to, some material fact;



(b) where the superseding decision was made pursuant to an application, that application was received by the appropriate relevant authority.

(5) For the purpose of paragraphs (3)(c) and (4), the reference to the decision which is advantageous to the claimant includes a decision specified in regulation 17(2).

(6) A superseding decision made in consequence of a rent officer's redetermination, substitute determination [<sup>F31</sup>substitute redetermination, board and attendance redetermination, substitute board and attendance determination, substitute board and attendance redetermination, amended broad rental market area determination or amended local housing allowance determination] under the Rent Officers (Housing Benefit Functions) Order 1997 or the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 shall take effect on the date on which a change of circumstances is to take effect in accordance with regulation 68 of the Housing Benefit Regulations as if that determination or redetermination were the relevant change of circumstances.

[<sup>F32</sup>(6A) Except in a case where entitlement to housing benefit ceases, where a rent officer has made a determination in exercise of the Housing Act functions pursuant to an application by a relevant authority under [<sup>F33</sup>“regulation 14(1)(f) or (g) of the Housing Benefit Regulations or, as the case may be, regulation 14(1)(f) or (g) of the Housing Benefit (State Pension Credit) Regulations”], any decision to which regulation 7(2ZA) applies which adopts that determination shall take effect from—

(a) in a case where the amount of the rent officer's determination has increased or remains unchanged, and—

(i) rent is payable weekly or in multiples of weeks, the first day of the benefit week in which the day following the last day of the period mentioned in [<sup>F33</sup>“regulation 14(1)(f) or (g) of the Housing Benefit Regulations or, as the case may be, regulation 14(1)(f) or (g) of the Housing Benefit (State Pension Credit) Regulations”] occurs;

(ii) rent is payable other than in accordance with head (i), the first day following the last day of the period mentioned in [<sup>F33</sup>“regulation 14(1)(f) or (g) of the Housing Benefit Regulations or, as the case may be, regulation 14(1)(f) or (g) of the Housing Benefit (State Pension Credit) Regulations”];

(b) in a case where the amount of the rent officer's determination has decreased, the first day of the benefit week following the date on which that determination was received by a relevant authority;

(6B) For the purposes of paragraph (6A) “Housing Act functions” has the same meaning as in regulation 2(1) of the Housing Benefit Regulations [<sup>F34</sup>or, as the case may be, regulation 2(1) of the Housing Benefit (State Pension Credit) Regulations.”]

(7) Where a decision is made superseding a decision of an appeal tribunal or of a Commissioner (“the appeal decision”) which—

(a) was made in ignorance of, or was based upon a mistake as to, some material fact; and

(b) was more advantageous to the claimant than it would otherwise have been but for that ignorance or mistake,

that superseding decision shall take effect on the date on which the appeal decision took or was to take effect.

(8) A superseding decision made as a consequence of a determination which is a relevant determination for the purposes of paragraph 18 of Schedule 7 to the Act (restrictions on entitlement to benefit in certain cases of error) shall take effect from the date of the relevant determination.

[<sup>F35</sup>(9) A decision to which regulation 7(2)(g) or (h) applies shall take effect from the first day of the disqualification period prescribed for the purposes of section 7 of the Social Security Fraud Act 2001.]

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[<sup>F36</sup>(10) Where the decision is superseded in accordance with regulation 7(2)(a)(i) and the relevant circumstances are that there has been a change in the legislation in relation to housing benefit or council tax benefit, the superseding decision shall take effect from the date on which that change in the legislation had effect.]

(11) Where a superseding decision is made in a case to which regulation 7(2)(d)(ii) applies the superseding decision shall take effect from the date on which the appeal tribunal or the Commissioner’s decision would have taken effect had it been decided in accordance with the determination of the Commissioner or the court in the appeal referred to in paragraph 17(1)(b) of Schedule 7 to the Act.]

<sup>F37</sup>(12) .....

<sup>F38</sup>(13) .....

[<sup>F39</sup>(14) Where the decision is superseded in accordance with regulation 7(2)(i) the superseding decision shall take effect from the date on which entitlement arises to the relevant benefit referred to in regulation 7(2)(i)(ii) or to an increase in the rate of that relevant benefit.]

[<sup>F40</sup>(14A) Where a decision is superseded in accordance with regulation 7(2)(j), the superseding decision shall take effect from the day on which a lump sum, or a payment on account of a lump sum, is paid or repaid if that day is the first day of the benefit week but, if it is not, from the next following such day.]

[<sup>F41</sup>(14B) A decision to which regulation 7(2)(k) applies shall take effect in accordance with regulation 4 of the Pilot Scheme Regulations;

(14C) A decision to which regulation 7(2)(l) applies shall take effect on the day the claimant first represented himself to be a person in hardship in accordance with regulation 5 of the Pilot Scheme Regulations.]

[<sup>F42</sup>(15) A decision to which regulation 7(2B) applies shall take effect from the day immediately following the day on which the maximum housing benefit would have ceased to have effect by virtue of [<sup>F43c</sup>regulation 11A of the Housing Benefit Regulations or, as the case may be, regulation 11A of the Housing Benefit (State Pension Credit) Regulations”], but for the decision made in accordance with regulation 7(2B).]

**Textual Amendments**

- F29** Words in reg. 8(2) substituted (6.3.2006) by *The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217)*, reg. 1(1), **Sch. 2 para. 17(3)(c)(i)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F30** Words in reg. 8(3) inserted (6.10.2003) by *The Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (S.I. 2003/325)*, regs. 1(1)(a), **28(b)** (with reg. 29)
- F31** Words in reg. 8(6) substituted (17.11.2003 reg. 1(1), Sch. 1) by *Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2003 (S.I. 2003/2399)*, **reg. 16(3)**
- F32** Reg. 8(6A)(6B) inserted (5.4.2004) by *Housing Benefit and Council Tax Benefit (Abolition of Benefit Periods) Amendment Regulations 2004 (S.I. 2004/14)*, regs. 1(1), **34(2)** (with reg. 27)
- F33** Words in reg. 8(6A) substituted (6.3.2006) by *The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217)*, reg. 1(1), **Sch. 2 para. 17(3)(c)(ii)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F34** Words in reg. 8(6B) added (6.3.2006) by *The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217)*, reg. 1(1), **Sch. 2 para. 17(3)(c)(iii)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F35** Reg. 8(9) added (1.4.2002) by *Social Security (Loss of Benefit) (Consequential Amendments) Regulations 2002 (S.I. 2002/490)*, regs. 1(1), **9(c)**

- F36** Reg. 8(10)(11) added (5.5.2003) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1050), regs. 1(1)(a), **4(2)** (with reg. 6)
- F37** Reg. 8(12) revoked (24.9.2007) by Social Security (Miscellaneous Amendments) (No.4) Regulations 2007 (S.I. 2007/2470), regs. 1, **8**
- F38** Reg. 8(13) revoked (24.9.2007) by Social Security (Miscellaneous Amendments) (No.4) Regulations 2007 (S.I. 2007/2470), regs. 1, **8**
- F39** Reg. 8(14) added (6.10.2003) by The Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2275), regs. 1(1)(b), **5(5)**
- F40** Reg. 8(14A) inserted (6.4.2006) by Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 (S.I. 2005/2677), regs. 1(1), **10(4)**
- F41** Reg. 8(14B)(14C) inserted (1.11.2007 for specified purposes) by Housing Benefit (Loss of Benefit) (Pilot Scheme)(Supplementary) Regulations 2007 (S.I. 2007/2474), regs. 1, 3, **8(d)**
- F42** Reg. 8(15) inserted (17.11.2003 reg. 1(1), Sch. 1) by Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2003 (S.I. 2003/2399), **reg. 16(5)**
- F43** Words in reg. 8(15) substituted (6.3.2006) by The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217), reg. 1(1), **Sch. 2 para. 17(3)(c)(v)** (with regs. 2, 3, Sch. 3, Sch. 4)

#### Effective date for late notification of change of circumstances

9.—(1) For the purposes of making a decision under paragraph 4 of Schedule 7 to the Act a longer period of time may be allowed for the notification of a change of circumstances in so far as it affects the effective date of the change where the conditions specified in the following provisions of this regulation are satisfied.

(2) An application for the purposes of paragraph (1) shall—

- (a) include particulars of the change of circumstances and the reasons for the failure to notify the change of circumstances on an earlier date; and
- (b) be made within 13 months of the date on which the change occurred.

(3) An application for the purposes of paragraph (1) shall not be granted unless the appropriate relevant authority is satisfied that—

- (a) it is reasonable to grant the application;
- (b) the change of circumstances notified by the applicant is relevant to the decision which is to be superseded; and
- (c) special circumstances are relevant and as a result of those special circumstances it was not practicable for the applicant to notify the change of circumstances within one month of the change occurring.

(4) In determining whether it is reasonable to grant the application, the appropriate relevant authority shall have regard to the principle that the greater the amount of time that has elapsed between the date one month after the change of circumstances occurred and the date the application for a superseding decision is made, the more compelling should be the special circumstances on which the application is based.

(5) In determining whether it is reasonable to grant an application, no account shall be taken of the following—

- (a) that the applicant was unaware of, or misunderstood, the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or
- (b) that a Commissioner or a court has taken a different view of the law from that previously understood and applied.

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(6) An application under this regulation which has been refused may not be renewed.

### **Notice of a decision against which an appeal lies**

**10.**—(1) A person affected who has a right of appeal against a relevant decision shall be given written notice—

- (a) of the decision against which the appeal lies;
- (b) in a case where that notice does not include a statement of reasons for the decision, that he may request the relevant authority to provide him with a written statement of the reasons for that decision; and
- (c) of his right of appeal against that decision.

(2) Where a written statement of the reasons for the decision is not included in the written notice of the decision and is requested under paragraph (1)(b), the relevant authority shall, so far as practicable, provide that statement within 14 days.

### **[<sup>F44</sup>Correction of accidental errors**

**10A.**—(1) Accidental errors in a relevant decision, or a revised decision, or the record of such a decision, may be corrected by the relevant authority at any time.

(2) A correction made to a relevant decision, or a revised decision, or the record of such a decision, shall be deemed to be part of the decision, or of that record, and the relevant authority shall give a written notice of the correction as soon as practicable to the claimant.

(3) In calculating the time within which an application can be made under regulation 4(1)(a) for a relevant decision to be revised, or the time within which an appeal may be brought under regulation 18(1), there shall be disregarded any day falling before the day on which notice was given of a correction of the decision or to the revision or record thereof under paragraph (2).]

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#### **Textual Amendments**

**F44** Reg. 10A inserted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#), regs. 1(1), **25**

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001, PART II.