
STATUTORY INSTRUMENTS

2001 No. 1605

The Housing Benefit and Council Tax Benefit (Decisions and Appeals and Discretionary Financial Assistance) (Consequential Amendments and Revocations) Regulations 2001

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (Decisions and Appeals and Discretionary Financial Assistance) (Consequential Amendments and Revocations) Regulations 2001 and shall come into force on 2nd July 2001.

(2) In these Regulations—

“the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992(1);

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(2).

Definitions

2.—(1) In regulation 2(1) of the Council Tax Benefit Regulations (interpretation) there shall be inserted in the appropriate places the following definitions—

““the Decisions and Appeals Regulations” means the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(3);”;

““relevant authority” means an authority administering council tax benefit;”.

(2) In regulation 2(1) of the Housing Benefit Regulations (interpretation) there shall be inserted in the appropriate places the following definitions—

““the Decisions and Appeals Regulations” means the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001;”;

““relevant authority” means an authority administering housing benefit;”.

(3) In regulation 2(1) of both the Council Tax Benefit Regulations and the Housing Benefit Regulations, for the definition of “person affected” there shall be substituted the following definition—

““person affected” shall be construed in accordance with regulation 3 of the Decisions and Appeals Regulations;”.

Substitution of references to “appropriate authority” and “appropriate local authority”

3.—(1) Except in a case where paragraph (3)(a) below applies, in the provisions of the Council Tax Benefit Regulations specified in Part I of Schedule 1 to these Regulations, for the words “appropriate authority”, wherever those words appear, there shall be substituted the words “relevant authority”.

(1) [S.I. 1992/1814](#).

(2) [S.I. 1987/1971](#).

(3) [S.I. 2001/1002](#).

(2) Except in a case where paragraph (3)(b) below applies, in the provisions of the Housing Benefit Regulations specified in Part II of Schedule 1 to these Regulations, for the words “appropriate authority” and “appropriate local authority”, wherever those words appear, there shall be substituted the words “relevant authority”.

(3) In—

- (a) regulations 56(2), 62(10) and (11), 63(5), 67(1), 77(1) and (4), 87(1) and 91(2) of, and paragraphs 1 and 16 of Schedule 6 to, the Council Tax Benefit Regulations; and
- (b) regulations 12A(1), (2A) and (5)(4), 12B(1)(5), 71(7)(6) and 73(5) of, and paragraph 1 of Schedule 6 to, the Housing Benefit Regulations,

for the words “an appropriate authority” or “an appropriate local authority” there shall be substituted the words “a relevant authority”.

(4) In regulation 2(1) of the Council Tax Benefit Regulations, the definition of “appropriate authority” shall be omitted.

Substitution of references to “determination” and related references

4.—(1) In the Council Tax Benefit Regulations—

- (a) in regulation 62(4)(c), for the words “date of determination of” there shall be substituted the words “date on which a decision was made”;
- (b) in regulation 64, for the word “determination” in both places where that word appears, there shall be substituted the word “decision”;
- (c) in regulation 65(1), for the words “its determination” there shall be substituted the words “a decision being made on it”;
- (d) in the title to Part IX, for the words “Determination of” there shall be substituted the words “Decisions on”;
- (e) in regulation 66—
 - (i) in the title, for the word “determination” there shall be substituted the word “decision”;
 - (ii) in paragraph (2), for the word “determine” there shall be substituted the words “make a decision on”;
 - (iii) in paragraph (3), for the words “Every claim shall be determined by the appropriate authority” there shall be substituted the words “The relevant authority shall make a decision on each claim”;
- (f) in regulation 67—
 - (i) in the title, for the word “determinations” there shall be substituted the word “decisions”;
 - (ii) in paragraph (1), for the word “determination”, wherever that word appears, there shall be substituted the word “decision”;
 - (iii) in paragraph (2)—
 - (aa) for the word “determination”, in the first place where that word appears, there shall be substituted the words “a decision”;
 - (bb) for the words “as to its determination of” there shall be substituted the words “for its decision on”;

(4) Regulation 12A was inserted by [S.I. 1990/546](#).

(5) Regulation 12B was inserted by [S.I. 2000/4](#).

(6) Regulation 71(7) was added by [S.I. 1999/3108](#) and amended by [S.I. 2000/897](#).

- (g) in regulation 90(1)(b) and (3)(7), for the word “determination” there shall be substituted the word “decision”;
 - (h) in paragraph 9 of Schedule A1(8) and in the title to that paragraph, for the words “notice of determination” there shall be substituted the words “the decision notice”.
- (2) In the Housing Benefit Regulations—
- (a) in regulation 5—
 - (i) in paragraph (6)(b), for the words “that claim has not yet been determined” there shall be substituted the words “no decision has yet been made on that claim”;
 - (ii) in paragraph (7)(a), for the words “which has not yet been determined” there shall be substituted the words “in respect of which a decision has not yet been made”;
 - (b) in regulation 72(4)(c), for the words “date of determination of” there shall be substituted the words “date on which a decision was made”;
 - (c) in regulation 74, for the word “determination” in both places where that word appears, there shall be substituted the word “decision”;
 - (d) in regulation 75(1), for the words “its determination” there shall be substituted the words “a decision being made on it”;
 - (e) in the title to Part XI, for the words “Determination of” there shall be substituted the words “Decisions on”;
 - (f) in regulation 76—
 - (i) in the title, for the word “determination” there shall be substituted the word “decision”;
 - (ii) in paragraph (2), for the word “determine” there shall be substituted the words “make a decision on”;
 - (iii) in paragraph (3), for the words “Every claim shall be determined by the appropriate authority” there shall be substituted the words “The relevant authority shall make a decision on each claim”;
 - (g) in regulation 77—
 - (i) in the title, for the word “determinations” there shall be substituted the word “decisions”;
 - (ii) in paragraph (1)(9), for the word “determination”, wherever that word appears, there shall be substituted the word “decision”;
 - (iii) in paragraph (4)(10)—
 - (aa) for the word “determination”, in the first place where that word appears, there shall be substituted the words “a decision”;
 - (bb) for the words “as to its determination of” there shall be substituted the words “for its decision on”;
 - (h) in regulation 91—
 - (i) in paragraph (1)(11), for the word “determine” there shall be substituted the words “make a decision on”;

(7) Regulation 90 was substituted by [S.I. 2000/2331](#).

(8) Schedule A1 was inserted by [S.I. 1996/2432](#).

(9) Regulation 77(1) was so designated by [S.I. 1988/661](#).

(10) Regulation 77(4) was added by [S.I. 1992/432](#) and amended by [S.I. 1994/2137](#).

(11) Regulation 91(1) was amended by [S.I. 1995/2868](#).

- (ii) in paragraph (2), for the words “subsequent determination” there shall be substituted the words “subsequent decision”;
- (iii) in paragraph (3), for the words “subsequent determination” there shall be substituted the words “the basis of the subsequent decision”;
- (i) in regulation 91A(1)(**12**), for the word “determine” there shall be substituted the words “make a decision on”;
- (j) in regulation 94(1A)(**13**), for the words “determination of” there shall be substituted the words “making of a decision on”;
- (k) in regulation 97(1A)(**14**), for the word “determination” there shall be substituted the word “decision”;
- (l) in regulation 98, for the word “determined” there shall be substituted the word “decided”;
- (m) in regulation 104(1)(b) and (3)(**15**), for the word “determination” there shall be substituted the word “decision”;
- (n) in paragraph 10 of Schedule A1(**16**) and in the title to that paragraph, for the words “notice of determination” there shall be substituted the words “the decision notice”.

Substitution of references to “review” and related references

- 5.—(1) In the Council Tax Benefit Regulations—
- (a) in regulation 27(5)(**17**), for the word “review”, in both places where that word appears, there shall be substituted the word “revision”;
 - (b) in regulation 79(1), for the words “review of a determination of a decision” there shall be substituted the words “revision of a decision”;
 - (c) in regulation 82(1)—
 - (i) for the words “determination which is subsequently revised upon review or further review”, there shall be substituted the words “decision which is subsequently revised or further revised”;
 - (ii) for the word “determination”, in both other places where that word appears, there shall be substituted the word “decision”;
 - (d) in regulation 83, for the words “initial determination or as subsequently revised on review or further review”, there shall be substituted the words “the initial decision as subsequently revised or further revised”;
 - (e) in regulation 84(5)—
 - (i) for the word “reviewed” there shall be substituted the word “revised”;
 - (ii) for the word “review” there shall be substituted the word “revision”.
- (2) In the Housing Benefit Regulations—
- (a) in regulation 36(5)(**18**), for the word “review” in both places where that word appears, there shall be substituted the word “revision”;
 - (b) in regulation 97(1)—

(12) Regulation 91A was inserted by [S.I. 1988/661](#).

(13) Regulation 94(1A) was inserted by [S.I. 1996/965](#).

(14) Regulation 97(1A) was inserted by [S.I. 2000/2331](#).

(15) Regulation 104 was substituted by [S.I. 2000/2331](#).

(16) Schedule A1 was inserted by [S.I. 1996/2432](#).

(17) Regulation 27(5) was added by [S.I. 1993/2118](#).

(18) Regulation 36(5) was added by [S.I. 1993/2118](#).

- (i) for the words “determination which is subsequently revised upon review or further review”, there shall be substituted the words “decision which is subsequently revised or further revised”;
- (ii) for the word “determination”, in both other places where that word appears, there shall be substituted the word “decision”;
- (c) in regulation 98, for the words “initial determination or as subsequently revised on review or further review”, there shall be substituted the words “the initial decision as subsequently revised or further revised”;
- (d) in regulation 99(4)(19)—
 - (i) for the word “reviewed” there shall be substituted the word “revised”;
 - (ii) for the words “date of review” there shall be substituted the words “the date on which the revision took place”.

Amendment of Schedule 6 to both the Council Tax Benefit Regulations and the Housing Benefit Regulations

6.—(1) In Schedule 6 to the Council Tax Benefit Regulations(20)—

- (a) in the title, for the words “Notice of Determination” there shall be substituted the words “Decision Notice”;
- (b) subject to sub-paragraph (g) below, for the words “notice of determination”, wherever those words appear, there shall be substituted the words “decision notice”;
- (c) except in a case to which sub-paragraph (b) above applies, for the word “determination”, wherever that word appears, there shall be substituted the word “decision”;
- (d) in paragraph 1, for the words “69 (review of determinations)” there shall be substituted the words “in regulation 10 of the Decisions and Appeals Regulations”;
- (e) in paragraph 3, for the words “written representations in accordance with regulation 69(2)” there shall be substituted the words “an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations and, where appropriate, to appeal against that decision”;
- (f) in paragraph 4, for the words “written representation in accordance with regulation 69(2) (review of determinations)” there shall be substituted the words “an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations”;
- (g) for paragraph 5 there shall be substituted the following paragraph—

“Every decision notice following an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations shall, if the original decision has been revised, include a statement as to the right of any person affected by that decision to apply for a revision in accordance with regulation 4(1)(a) of those Regulations and the manner and time in which to do so.”;
- (h) in paragraph 8—
 - (i) for the word “review” there shall be substituted the word “revision”;
 - (ii) in sub-paragraph (b), for the words “written representations in accordance with regulation 69(2) (review of determinations)” there shall be substituted the words “an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations”;
 - (iii) for the word “reviewed” there shall be substituted the word “revised”.

(19) Regulation 99(4) was added by [S.I. 1991/1599](#).

(20) The relevant amending instrument is [S.I. 2000/897](#).

- (2) In Schedule 6 to the Housing Benefit Regulations(21)—
- (a) in the title, for the words “Notice of Determination” there shall be substituted the words “Decision Notice”;
 - (b) subject to sub-paragraph (g) below, for the words “notice of determination”, wherever those words appear, there shall be substituted the words “decision notice”;
 - (c) except in a case to which sub-paragraph (b) above applies, for the word “determination”, wherever that word appears, there shall be substituted the word “decision”;
 - (d) in paragraph 1, for the words “79 (review of determinations)” there shall be substituted the words “in regulation 10 of the Decisions and Appeals Regulations”;
 - (e) in paragraph 3, for the words “written representations in accordance with regulation 79(2)” there shall be substituted the words “an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations and, where appropriate, to appeal against that decision”;
 - (f) in paragraph 4, for the words “written representations in accordance with regulation 79(2) (review of determinations)” there shall be substituted the words “an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations”;
 - (g) for paragraph 5 there shall be substituted the following paragraph—

“Every decision notice following an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations shall, if the original decision has been revised, include a statement as to the right of any person affected by that decision to apply for a revision in accordance with regulation 4(1)(a) of those Regulations and the manner and time in which to do so.”;
 - (h) in paragraph 8—
 - (i) for the word “review” there shall be substituted the word “revision”;
 - (ii) in sub-paragraph (b), for the words “written representations in accordance with regulation 79(2) (review of determinations)” there shall be substituted the words “an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations”;
 - (iii) for the word “reviewed” there shall be substituted the word “revised”.

Rent Officer determinations

7. In the Housing Benefit Regulations—
- (a) in regulation 12B(1)(b)(22), for the words “regulation 79(4A) (review of determinations)” there shall be substituted the words “regulation 12CA(2) (application for redetermination by Rent Officer)”;
 - (b) after regulation 12C, there shall be inserted the following regulation—

“Application for redetermination by Rent Officer

12CA.—(1) This paragraph applies where—

- (a) a person affected makes written representations which are signed by him, to a relevant authority concerning a decision which it makes in relation to him;
- (b) those representations relate, in whole or in part, to a Rent Officer’s determination or redetermination in exercise of the Housing Act functions; and

(21) The relevant amending instruments are [S.I. 1997/2435](#) and [2000/897](#).

(22) Regulations 12B, 12C and 12D were inserted by [S.I. 2000/4](#).

(c) those representations are made no later than six weeks after the day on which the person affected was notified of the decision by the relevant authority.

(2) Subject to paragraphs (3) and (4), where paragraph (1) applies, the relevant authority shall, within 7 days of receiving the representations, apply to the Rent Officer for a redetermination or, as the case may be, a further redetermination in exercise of the Housing Act functions and a copy of those representations shall accompany the local authority's application.

(3) Except where paragraph (4) applies, a relevant authority, in relation to any determination by a Rent Officer of an application under regulation 12A(1)(requirement to refer to rent officers), shall not apply for a redetermination under paragraph (2) more than once in respect of an individual claimant's dwelling to which that determination relates.

(4) Paragraph (2) shall operate so as to require a relevant authority to make a second application where the following conditions are met in addition to those imposed by that paragraph—

(a) the written representations made under paragraph (1) related to a redetermination by a Rent Officer made in response to an application by the relevant authority under regulation 12B;

(b) at the time of that application, the Rent Officer has already provided a redetermination under this regulation of a determination made in response to an application under regulation 12A(1); and

(c) both the application under this regulation referred to in sub-paragraph (b) and the second application for which this paragraph provides relate to the same claimant.

(5) Where a decision has been revised in consequence of a redetermination, substitute determination or substitute redetermination by a Rent Officer in exercise of the Housing Act functions and that redetermination, substitute determination or substitute redetermination has led to—

(a) a reduction in the maximum rent, the redetermination, substitute determination or substitute redetermination shall be a change of circumstance;

(b) an increase in the maximum rent, the redetermination, substitute determination or substitute redetermination shall have effect in place of the original determination.”;

(c) in regulation 12D, for the words “12B and 12C and 79(4A) and (4B)” there shall be substituted the words “12B, 12C and 12CA”.

Evidence and information

8.—(1) In regulation 63 of the Council Tax Benefit Regulations(**23**) (evidence and information)

(a) for paragraph (1) there shall be substituted the following paragraphs—

“(1) Subject to paragraph (1A) and to paragraph 4 of Schedule A1 (treatment of claims for council tax benefit by refugees), a person who makes a claim, or a person to whom council tax 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, council tax benefit and shall do so within four weeks of being required to do so or such longer period as the relevant authority may consider reasonable.

(23) The relevant amending instruments are [S.I. 1995/2303](#) and [1996/2432](#).

- (1A) Nothing in this regulation shall require a person to furnish any certificates, documents, information or evidence relating to a payment to which paragraph (3) applies.”;
- (b) in paragraph (2)(a), after the word “claimant” there shall be inserted the words “or the person to whom council tax benefit has been awarded”;
- (c) in paragraph (4), after the word “claimant” there shall be inserted the words “or a person to whom council tax has been awarded”.
- (2) In regulation 73 of the Housing Benefit Regulations(24) (evidence and information)—
- (a) for paragraph (1) there shall be substituted the following paragraphs—
- “(1) Subject to paragraph (1A) and to paragraph 5 of Schedule A1 (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 four weeks of being required to do so or such longer period as the relevant authority may consider reasonable.
- (1A) Nothing in this regulation shall require a person to furnish any certificates, documents, information or evidence relating to a payment to which paragraph (3) applies.”;
- (b) in paragraph (2)(a), after the word “claimant” there shall be inserted the words “or the person to whom housing benefit has been awarded”;
- (c) in paragraph (4), after the word “claimant” there shall be inserted the words “or a person to whom housing benefit has been awarded”.

Other consequential amendments

- 9.—(1) In the Council Tax Benefit Regulations—
- (a) in regulation 59(1)(25), for the words “and regulation 59A” there shall be substituted the words “, regulation 59A or regulation 8(3) of the Decisions and Appeals Regulations”;
- (b) for regulation 84(3), there shall be substituted the following paragraph—
- “(3) In paragraph (2), “excess benefit allowed in consequence of an official error” means an overpayment caused by a mistake made whether in the form of an act or omission by—
- (a) the relevant authority;
- (b) an officer or person acting for that authority;
- (c) an officer of—
- (i) the Department of Social Security;
- (ii) the Department for Education and Employment;
- (iii) the Commissioners of the Inland Revenue,
- acting as such; or
- (d) a person providing services to either Department or to the Commissioners referred to in (c),

(24) The relevant amending instruments are [S.I. 1988/661](#), [1995/2303](#) and [1996/2432](#).

(25) The relevant amending instrument is [S.I. 2000/897](#).

where the claimant, a person acting on his behalf or any other person to whom the payment is made, did not cause or materially contribute to that mistake, act or omission.”.

(2) In the Housing Benefit Regulations—

(a) in regulation 11(1A)(b)(26), for the words “superseding decision” there shall be substituted the words “decision made under paragraph 4 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000”;

(b) in regulation 68—

(i) in paragraph (1)(27), for the words “or regulation 68A” there shall be substituted the words “, regulation 68A or regulation 8(3) of the Decisions and Appeals Regulations”;

(ii) at the beginning of paragraph (2), there shall be inserted the words “Except in a case where regulation 8(3) of the Decisions and Appeals Regulations applies,”;

(c) in regulation 96(1)(28), the words “, including any payment withheld under regulation 95(1) or (2),” shall be omitted;

(d) for regulation 99(3), there shall be substituted the following paragraph—

“(3) In paragraph (2), “overpayment caused by official error” means an overpayment caused by a mistake made whether in the form of an act or omission by—

(a) the relevant authority;

(b) an officer or person acting for that authority;

(c) an officer of—

(i) the Department of Social Security;

(ii) the Department for Education and Employment;

(iii) the Commissioners of the Inland Revenue,

acting as such; or

(d) a person providing services to either Department or to the Commissioners referred to in (c),

where the claimant, a person acting on his behalf or any other person to whom the payment is made, did not cause or materially contribute to that mistake, act or omission.”.

Revocations

10.—(1) The provisions of the Council Tax Benefit Regulations specified in Part I of Schedule 2 to these Regulations shall be revoked.

(2) The provisions of the Housing Benefit Regulations specified in Part II of Schedule 2 to these Regulations shall be revoked.

Maximum housing benefit: consequential amendments

11.—(1) In regulation 61 of the Housing Benefit Regulations (maximum housing benefit)—

(a) in paragraph (1), the words “Subject to the following provisions of this regulation,” shall be omitted;

(b) paragraphs (2), (3) and (4) shall be omitted;

(26) Regulation 11(1A) was inserted by [S.I. 2001/1324](#).

(27) The relevant amending instrument is [S.I. 2000/897](#).

(28) Regulation 96(1) was amended by [S.I. 1992/2148](#).

- (c) paragraph (1) shall be renumbered “61.”
- (2) In paragraph 7 of Schedule A1 to the Housing Benefit Regulations (claims for housing benefit by refugees: calculation of amount of benefit)—
 - (a) in sub-paragraph (1), the words “Subject to sub-paragraph (2),” shall be omitted;
 - (b) sub-paragraph (2) shall be omitted;
 - (c) sub-paragraph (1) shall be renumbered “7.”

Signed by authority of the Secretary of State for Social Security.

26th April 2001

Angela Eagle
Parliamentary Under-Secretary of State,
Department of Social Security