STATUTORY RULES OF NORTHERN IRELAND

2004 No. 144

HOUSING; RATES

The Housing Benefit (Abolition of Benefit Periods Amendment) Regulations (Northern Ireland) 2004

Made - - - - - *26th March 2004*

Coming into operation *5th April 2004*

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PROVISIONS CONFERRING POWERS EXERCISED IN MAKING THESE REGULATIONS

The Department for Social Development, in exercise of the powers conferred on it by the provisions specified in the Schedule to these Regulations, and now vested in it(**a**), paragraph 4(3) and (5) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**b**) and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**c**), and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(**d**), hereby makes the following Regulations:

(**a**) *See* Article 8(b) of S.R. 1999 No. 481
(**b**) 2000 c. 4 (N.I.)
(**c**) *See* section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); *see also* Article 6(b) of S.R. 1999 No. 481
(**d**) *See* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

PART 1
GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Abolition of Benefit Periods Amendment) Regulations (Northern Ireland) 2004 and shall come into operation on 5th April 2004.

(2) In these Regulations –

"the Act" means the Child Support, Pensions and Social Security Act (Northern Ireland) 2000;

"appropriate relevant authority" has the same meaning as in paragraph 4 of Schedule 7 to the Act;

"benefit period" has the same meaning as in regulation 66 of the Housing Benefit Regulations as in operation immediately before 5th April 2004;

"relevant authority"(**a**) has the same meaning as in regulation 2(1) of the Housing Benefit Regulations;

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**b**);

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

PART 2
AMENDMENT OF HOUSING BENEFIT REGULATIONS

Amendment of regulation 2 of the Housing Benefit Regulations

2. In regulation 2(1) of the Housing Benefit Regulations (interpretation) the definition of "benefit period" shall be omitted.

Amendment of regulation 7 of the Housing Benefit Regulations

3. In regulation 7(12) of the Housing Benefit Regulations(**d**) (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) the words from "except" to the end shall be omitted.

Amendment of regulation 11 of the Housing Benefit Regulations

4. In regulation 11(6) of the Housing Benefit Regulations(**e**) (maximum rent) –

(a) in sub-paragraph (b) for "benefit period" there shall be substituted "award of housing benefit", and

(b) after sub-paragraph (b) there shall be substituted the following heads –

(a) Definition of "relevant authority" was inserted by regulation 2(a) of S.R. 2001 No. 215

(**b**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1989 No. 125, S.R. 1990 Nos. 136 and 137, S.R. 1991 Nos. 47 and 337, S.R. 1992 No. 141, S.R. 1993 Nos. 149 and 381, S.R. 1994 No. 274, S.R. 1995 No. 89, S.R. 1996 Nos. 111, 115, 181 and 334, S.R. 1997 No. 454, S.R. 1999 Nos. 99, 381 and 416, S.R. 2000 Nos. 1, 260 and 265, S.R. 2001 Nos. 78, 79, 99, 175, 215 and 238, S.R. 2002 No. 295 and S.R. 2003 Nos. 189, 197 and 294

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

(**d**) Paragraph (12) was added by regulation 3(4)(c) of S.R. 1993 No. 149 and modified by regulation 8 of S.R. 2003 No. 294 which is revoked by regulation 30 of these Regulations

(**e**) Regulation 11 was substituted by regulation 7 of S.R. 1996 No. 111 and paragraph (6) was amended by regulation 4(c)(i) and 5(a) of S.R. 2001 No. 215 and was modified by regulation 9(a) of S.R. 2003 No. 294 which is revoked by regulation 30 of these Regulations

"then –

(i) the maximum rent shall not be reduced, where the sum is not less than the maximum rent, during a period ending on the effective date of a decision made by the Executive under regulation 10A (decisions), and

(ii) the maximum rent shall be reduced to an amount equal to that sum, where that sum is less than the maximum rent during a period ending on the effective date of a decision made by the Executive under regulation 10A.".

Amendment of regulation 21 of the Housing Benefit Regulations

5. In regulation 21(1)(a) of the Housing Benefit Regulations(**a**) (calculation of income on a weekly basis) "over the benefit period" shall be omitted.

Amendment of regulation 21A of the Housing Benefit Regulations

6. In regulation 21A(3) of the Housing Benefit Regulations(**b**) (treatment of child care charges) "over the benefit period" shall be omitted.

Amendment of regulation 22 of the Housing Benefit Regulations

7. In regulation 22 of the Housing Benefit Regulations (average weekly earnings of employed earners) –

(a) in paragraph (1)(b) "over the benefit period" shall be omitted, and

(b) for paragraph 3(**c**) there shall be substituted the following paragraph –

"(3) Where the amount of a claimant's earnings changes during an award the relevant authority shall estimate his average weekly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period shall not in any case exceed 52 weeks.".

Amendment of regulation 23 of the Housing Benefit Regulations

8. In regulation 23(1) of the Housing Benefit Regulations(**d**) (average weekly earnings of self-employed earners) "over the benefit period" shall be omitted.

Amendment of regulation 24 of the Housing Benefit Regulations

9. In regulation 24(1) of the Housing Benefit Regulations(**e**) (average weekly income other than earnings) "over the benefit period" shall be omitted.

Extended payments

10. Subject to regulation 26 (saving provision for extended payments), for regulation 62A of the Housing Benefit Regulations(**f**) (extended payments) there shall be substituted the following regulation –

"**62A.**—(1) Subject to paragraphs (7) and (8) paragraph (2) shall apply where –

(a) a person ceases to be entitled to housing benefit –

(i) in accordance with regulation 65A(1) (date on which housing benefit is to end), and

(ii) the conditions referred to in paragraphs 2 and 3 of Schedule 5A (extended payments of Housing Benefit) are satisfied in his case, or

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(**a**) Paragraph (1)(a) was amended by regulations 4(a) of S.R. 1991 No. 337 and 2(2)(a) of S.R. 1994 No. 274
(**b**) Regulation 21A was inserted by regulation 2(3) of S.R. 1994 No. 274
(**c**) Regulation 22 was amended by Schedule 1 of S.R. 2001 No. 215
(**d**) Paragraph (1) was amended by regulation 7 of S.R.1993 No. 381
(**e**) Paragraph (1) was amended by regulation 5 of S.R. 1989 No. 125
(**f**) Regulation 62A was inserted by regulation 3 of S.R. 1996 No. 115

(b) a person ceases to be entitled to housing benefit because he has vacated the dwelling which he occupied as his home and the day on which he did so was either in the week in which he took up employment as an employed or self-employed earner, or in the preceding week, and –

(i) he ceased to be entitled to income support or an income-based jobseeker's allowance by reason of taking up employment as an employed or self-employed earner, and

(ii) the conditions referred to in paragraphs 2 and 3 of Schedule 5A are satisfied in his case.

(2) A person to whom paragraph (1) applies shall be treated as having made a claim under this regulation and his housing benefit shall be determined in accordance with Part II of Schedule 5A and any award so determined shall be referred to in these Regulations as an "extended payment".

(3) For the purposes of any payment pursuant to this regulation –

(a) except in a case to which paragraph 8(b) of Schedule 5A applies, the maximum housing benefit of any person mentioned in paragraph (1) shall be that which was applicable to him in the last benefit week of the award of housing benefit which has ceased as mentioned in paragraph (1);

(b) the maximum housing benefit of any person to whom paragraph 8(b) of Schedule 5A applies shall be determined in accordance with paragraph 9 of that Schedule, and

(c) any person who meets the requirements of paragraph (1) shall be treated as possessing no income or capital.

(4) Regulations 71, 72 and 73 (claims, evidence and information) shall not apply to a claim pursuant to this regulation and, subject to regulation 69(9), Part IX (calculation of weekly amounts and changes of circumstances) shall not apply to any payment under it.

(5) In paragraph (1)(a) and (b), references to a "person" include references to a person's partner.

(6) Subject to paragraph (8), in a case where a payment has been made under this regulation –

(a) the beneficiary shall be treated for the purposes of these Regulations and of the Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1996(**a**) as though he were entitled to and in receipt of housing benefit –

(i) during the 4 weeks immediately following the last day of his entitlement to housing benefit, or

(ii) until the date on which his liability for rent or rates or both ends,

whichever occurs first, and

(b) any claim for housing benefit made by the beneficiary within the period which under sub-paragraph (a) applies in his case or the 4 weeks thereafter shall be treated as having been made in respect of a period beginning immediately after the end of his previous award of housing benefit.

(7) This regulation shall not apply to a claimant where, on the day before his entitlement to income support ceased, regulation 6(5) of the Income Support (General) Regulations (Northern Ireland) 1987(**b**) (persons not treated as engaged in remunerative work) applied to him.

(8) Until 25th October 2004 this regulation shall have effect subject to the following provisions of this paragraph –

(a) the following shall be inserted after sub-paragraph (b) of paragraph (1) –

(**a**) S.R. 1996 No. 111
(**b**) 2001 No. 78

", or

(c) a person ceases to be entitled to housing benefit –

(i) in accordance with regulation 65A(2) (date on which housing benefit is to end) and the condition referred to in paragraph 3A of Schedule 5A is satisfied in his case, or

(ii) because he has vacated the dwelling which he occupied as his home and the day on which he did so was either in the week in which he took up employment as an employed or self-employed earner or in the preceding week or during the period specified in regulation 6(3) of the Income Support (General) Regulations (Northern Ireland) 1987, and

(aa) he is a person to whom regulation 6(2) of those Regulations applies;

(bb) he has ceased to be entitled to income support or an income-based jobseeker's allowance by reason of taking up employment as an employed or self-employed earner, and

(cc) the condition referred to in paragraph 3A of Schedule 5A is satisfied in his case.";

(b) in paragraph (6), for "paragraph (8)," there shall be substituted "paragraphs (8) and (9)", and

(c) after paragraph (8) there shall be inserted the following paragraph –

"(9) Where the beneficiary is a person to whom regulation 6(2) of the Income Support (General) Regulations (Northern Ireland) 1987 applies (persons not treated as engaged in remunerative work) and a payment is under this regulation, he shall be treated for the purposes of these Regulations and of the Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1996 as though he were entitled to and in receipt of housing benefit –

(a) during the period beginning on the day immediately following the last day of his entitlement to housing benefit and ending on the last day of the benefit week which includes the day –

(i) which is 4 weeks after the day on which that person was first engaged in the work referred to in regulation 6(2)(a) of those Regulations, or

(ii) on which that person's liability for rent or rates or both ends,

whichever occurs first, and

(b) any claim for housing benefit made by the beneficiary within the period which under sub-paragraph (a) applies in his case or the 4 weeks thereafter shall be treated as having been made in respect of a period beginning immediately after the end of his previous award of housing benefit.".".

Date on which an award of benefit is to end

11. After regulation 65 of the Housing Benefit Regulations(**a**) (date on which entitlement is to commence) there shall be inserted the following regulation –

"**Date on which housing benefit is to end**

65A.—(1) Subject to paragraphs (2) and (3), a claimant's entitlement to housing benefit shall cease at the end of the benefit week in which entitlement to income support or income-based jobseeker's allowance ceases where –

(a) the claimant or his partner was entitled to and in receipt of income support or an income-based jobseeker's allowance or that claimant and his partner were entitled to and in receipt of a joint-claim jobseeker's allowance and that entitlement has ceased;

(b) the entitlement to income support or income-based jobseeker's allowance has ceased by reason of the claimant or his partner –

(i) commencing employment as an employed or self-employed earner;

(**a**) Regulation 65 was amended by regulation 4(3) of S.R. 1990 No. 137 and regulation 12(a) of S.R. 2003 No. 294

(ii) increasing their earnings from such employment, or

(iii) increasing the number of hours worked in such employment;

(c) the claimant had been entitled to and in receipt of income support or income-based jobseeker's allowance for a continuous period of at least 26 weeks before the day on which his entitlement to income support or income-based jobseeker's allowance ceased, and for the purposes of this sub-paragraph –

(i) a claimant satisfies the conditions of this sub-paragraph if he has been entitled to and in receipt of a combination of income support and a jobseeker's allowance for at least 26 weeks;

(ii) references to the claimant include references to his partner;

(iii) a reference to the claimant being entitled to and in receipt of a jobseeker's allowance shall include a reference to the claimant and his partner being entitled to and in receipt of a joint-claim jobseeker's allowance, and

(d) that work, increased earnings or, as the case may be, increased hours is expected to last at least 5 weeks or more.

(2) In the case of a claimant to whom regulation 6(2) of the Income Support (General) Regulations (Northern Ireland) 1987 applies (persons not treated as engaged in remunerative work), entitlement to housing benefit shall cease where –

(a) the claimant was entitled to and in receipt of income support or an income-based jobseeker's allowance and that entitlement ceases;

(b) the entitlement to income support or income-based jobseeker's allowance ceases by reason of the claimant commencing employment as an employed or self-employed earner, and

(c) that work is expected to last 5 weeks or more,

and that entitlement shall cease at the end of the benefit week in which entitlement to income support or income-based jobseeker's allowance ceases.

(3) Paragraph (2) shall be omitted with effect from 25th October 2004.".

Benefit period

12. Regulations 66(**a**) (benefit period) and 67(**b**) (date on which benefit period is to end) of the Housing Benefit Regulations are hereby revoked.

Change of circumstances

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

(a) in paragraph (1)(**c**), "regulation 8(3) (eligible housing costs) or" shall be omitted;

(b) at the beginning of paragraphs (2)(**d**), (3)(**e**) and (4)(**f**) there shall be inserted "Subject to paragraphs (13) and (14),", and

(c) after paragraph (12)(**g**) there shall be added the following paragraphs –

"(13) Paragraph (14) applies where –

(a) a change of circumstances would, but for that paragraph, take effect in accordance with paragraph (2), (3)(a)(i) or (b) or (4) on a day that is not the first day of a benefit week, and

(b) the effect of that change of circumstances is to end entitlement to housing benefit.

(**a**) Regulation 66 was amended by regulation 11 of S.R. 1996 No. 334, regulation 5 of S.R. 2000 No. 1 and Schedule 1 to S.R. 2001 No. 215

(**b**) Regulation 67 was amended by regulation 9 of S.R. 1990 No. 136, regulation 8 of S.R. 1995 No. 89, regulation 12(a), (b), (c) and (d) of S.R. 1996 No. 334 and Schedule 1 to S.R. 2001 No. 215

(**c**) Pararaph 1 was amended by regulation 6(a) of S.R. 1999 No. 416, regulation 8(a)(i) of S.R. 2001 No. 215, regulation 2(2)(a) of S.R. 2003 No. 189, regulation 13(3) of S.R. 2003 No. 197 and regulation 11(a) of S.R. 2003 No. 294

(**d**) Paragraph 2 was amended by regulation 8(a)(ii) of S.R. 2001 No. 215 and regulation 11(b) of S.R. 2003 No. 294

(**e**) Paragraph 3 was amended by regulation 7(b) of S.R. 1992 No. 141 and regulation 11(b) of S.R. 2003 No. 294

(**f**) Paragraph 4 was amended by regulation 7(c) of S.R. 1992 No. 141 and regulation 11(b) of S.R. 2003 No. 294

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

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

Time claims are made or treated as made

14. Subject to regulation 24 (transitional provision), in the Housing Benefit Regulations –

(a) in regulation 65(1) (date on which entitlement is to commence), "regulation 72(11) to (13) (renewal claims) and" shall be omitted, and

(b) in regulation 72, paragraphs (11) to (13A)(**a**) (time and manner in which claims are to be made) shall be omitted.

Amendment of regulation 70 of the Housing Benefit Regulations

15. In regulation 70 of the Housing Benefit Regulations (rent and rate-free periods) for "benefit period" there shall be substituted "rent and rate-free period".

Amendment of regulation 76 of the Housing Benefit Regulations

16. In regulation 76 of the Housing Benefit Regulations (who is to make a decision) –

(a) paragraph (2)(d) shall be omitted;

(b) in paragraph (4)(a)(**b**) for "62A(1B)" there shall be substituted "62A(2)";

(c) subject to sub-paragraph (d), in paragraph (5)(**c**) for "62A(1A)(b)" there shall be substituted "paragraph 3A of Schedule 5A", and

(d) in paragraph (4) "and subject to paragraph (5)" and paragraph (5) shall be omitted with effect from 25th October 2004.

Amendment of regulation 104 of the Housing Benefit Regulations

17. Paragraph (2) of regulation 104 of the Housing Benefit Regulations(**d**) (sums to be deducted in calculating recoverable overpayments) shall be omitted.

Amendment of Schedule 1B to the Housing Benefit Regulations

18. In Schedule 1B to the Housing Benefit Regulations(**e**) (excluded tenancies) –

(a) for sub-paragraph (2) of paragraph 2(**f**) there shall be substituted the following sub-paragraph –

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

(a) the earlier and later applications were made in respect of the same claimant or different claimants, and

(b) the earlier application was made more than 52 weeks before the later application was made.", and

(b) paragraphs 2(2A)(**g**), (3)(d)(**h**) and 4 shall be omitted.

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

(**b**) Paragraph (4) was added by regulation 5 of S.R. 1996 No. 115 and amended by regulation 15 of S.R. 1996 No. 334, regulation 4(4)(a) of S.R. 1999 No. 381, regulation 5(a) of S.R. 2001 No. 99 and Schedule 1 to S.R. 2001 No. 215

(**c**) Paragraph (5) was added by regulation 4(4)(b) of S.R. 1999 No. 381 and amended by regulation 5(b) of S.R. 2001 No. 99 and Schedule 1 to S.R. 2001 No. 215

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

(**e**) Schedule 1B was inserted by Schedule 2 to S.R. 1996 No. 111

(**f**) Paragraph 2(2) was substituted by regulation 7 of S.R. 2001 No. 79 and amended by regulation 4(s)(i) of S.R. 2001 No. 215, regulation 3(a) and (b) of S.R. 2001 No. 238 and regulation 15(2) of S.R. 2003 No. 294

(**g**) Sub-paragrpah (2A) was substituted by regulation 7 of S.R. 2001 No. 79

(**h**) Sub-paragraph (3)(d) was inserted by regulation 9 of S.R. 1996 No. 181

Amendment of Schedule 2 to the Housing Benefit Regulations

19. Paragraph 8A(4) of Schedule 2 to the Housing Benefit Regulations(**a**) (bereavement premium) shall be omitted.

Amendment of Schedule 5 to the Housing Benefit Regulations

20. For sub-paragraph (3) of paragraph 8 of Schedule 5 to the Housing Benefit Regulations(**b**) (capital to be disregarded) there shall be substituted the following sub-paragraph–

"(3) For the purposes of sub-paragraph (2), "award of housing benefit" means –

(a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment), and

(b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the claimant –

(i) is the person who received the relevant sum, or

(ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death.".

Amendment of Schedule 5A to the Housing Benefit Regulations

21. In Schedule 5A to the Housing Benefit Regulations(**c**) (extended payments of housing benefit) –

(a) paragraph 1 shall be omitted;

(b) the following paragraph shall be inserted before paragraph 2 –

"1A. Until 25th October 2004 this Schedule shall have effect subject to the following provisions of this paragraph –

(a) after paragraph 3(**d**) there shall be inserted the following paragraph –

"3A. The condition referred to in regulation 62A(1)(c) is that the Department has certified to the relevant authority –

(a) that regulation 6(2) of the Income Support (General) Regulations (Northern Ireland)1987 applies to the claimant;

(b) the date on which the claimant was first engaged in the work referred to in regulation 6(2)(a) of those Regulations, and

(c) the date on which his entitlement to income support or an income-based jobseeker's allowance ceased or is expected to cease.";

(b) in paragraph 4(4)(**e**) for "62A(5)(a)" there shall be substituted "62A(6) or (9), as the case may be,", and

(c) in paragraph 8(b)(**f**) for "62A(5)(a)" there shall be substituted "62A(6) or (9), as the case may be.".";

(c) in paragraph 2(e)(**g**) –

(i) head (i) shall be omitted;

(ii) for head (ii) there shall be substituted the following head –

"(ii) a claimant satisfies the conditions of this sub-paragraph if he has been entitled to and in receipt of a combination of income support and a jobseeker's allowance for at least 26 weeks and for the purposes of this sub-paragraph, a reference to the claimant being entitled to and in receipt of a jobseeker's allowance shall

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(**a**) Paragraph 8A(4) was inserted by regulation 4(2)(b) of S.R. 2000 No. 260
(**b**) Sub-paragraph (3) was added by regulation 3 of S.R. 2002 No. 295
(**c**) Schedule 5A was inserted by regulation 6 of S.R. 1996 No. 115
(**d**) Paragraph 3 was substituted by regulation 6(3) of S.R. 2001 No. 99
(**e**) Sub-paragraph (4) was amended by regulation 4(5)(b) of S.R. 1999 No. 381 and regulation 6(4)(a) of S.R. 2001 No. 99
(**f**) Paragraph 8(b) was amended by regulation 4(5)(c) of S.R. 1999 No. 381
(**g**) Sub-paragraph (e) was substituted by regulation 22(a)(iv) of S.R. 1996 No. 334 and amended by regulation 6(2)(c) of S.R. 2001 No. 99

include a reference to the claimant and his partner being entitled to and in receipt of a joint-claim jobseeker's allowance;";

(d) in paragraph 3(**a**) –

(i) after sub-paragraph (a)(ii) there shall be inserted the following sub-paragraph –

"or

(iii) has commenced, or is about to commence, an increased number of hours of work", and

(ii) in sub-paragraph (b) after "in sub-paragraph (a)(ii)" there shall be inserted ", or first commences the increased number of hours work referred to in sub-paragraph (a)(iii)";

(e) in paragraph 4 –

(i) in sub-paragraph (1) for "the termination of the relevant benefit period" there shall be substituted "he ceased to be entitled to housing benefit",

(ii) in sub-paragraph (2) "in the relevant benefit period" shall be omitted;

(iii) in sub-paragraph (3)(**b**) for "the termination of the relevant benefit period", in each place where it occurs there shall be substituted "he ceased to be entitled to housing benefit";

(iv) in sub-paragraph (4)(**c**) for "62A(5)(a)" there shall be substituted "62A(6)";

(f) in paragraph 6(1) for "the termination of the relevant benefit period" there shall be substituted "he ceased to be entitled to housing benefit";

(g) in paragraph 8(b)(**d**) for "62A(5)(a)" there shall be substituted "62A(6)";

(h) in paragraph 10 for "62A(5)(a)" there shall be substituted "62A(6)(a)", and

(i) in paragraph 13(1) –

(i) the following definitions shall be omitted –

(aa) "the last day";

(bb) "the relevant benefit period", and

(ii) for the definition of "the second dwelling" there shall be substituted the following definition –

" "second dwelling" means the dwelling to which a person has moved, or is about to move, which he is or will be occupying as his new home, and where the liability to make payments of rent and rates or both in respect of his dwelling follows on immediately from the liability to make payments of rent or rates or both in respect of his previous dwelling", and

(j) in paragraph 13(1)(**e**) in the definition of "claimant", the words ", subject to sub-paragraph (2)," and paragraph 13(2) shall be omitted with effect from 25th October 2004.

Amendment of Schedule 6 to the Housing Benefit Regulations

22. In Schedule 6 to the Housing Benefit Regulations (matters to be included in the decision notice) –

(a) paragraph 9(h)(**f**) shall be omitted, and

(b) in paragraph 14(1)(e)(**g**) the words from "in each benefit period" to the end shall be omitted.

(**a**) Paragraph 3 was substituted by regulation 6(3) of S.R. 2001 No. 99

(**b**) Sub-paragraph (3) was substituted by regulation 4(5)(b)(i) of S.R. 1999 No. 381

(**c**) Sub-paragraph (4) was amended by regulation 4(5)(b)(ii) of S.R.1999 No. 381 and regulation 6(4)(a) of S.R. 1999 No. 99

(**d**) Paragraph 8 was amended by regulation 4(5)(c) of S.R. 1999 No. 381

(**e**) In paragraph (1) the definition of "claimant" was amended by regulation 4(5)(e) of S.R. 1999 No. 381 and sub-paragraph (2) was inserted by regulation 4(5) of S.R. 1999 No. 381

(**f**) Paragraph 9(h) was amended by regulation 13 of S.R. 1989 No. 125, regulation 23(2)(a) of S.R. 1996 No. 334, regulation 6(b) of S.R. 2001 No. 215 and regulation 16 of S.R. 2003 No. 294

(**g**) Paragraph 14(1)(e) was amended by regulation 4(4) of S.R. 1997 No. 454 and regulation 6(b) and (c) of S.R. 2001 No. 215

Minor and consequential amendments

23.—(1) In the provisions specified in paragraph (2), for "benefit period" wherever it occurs, there shall be substituted "award of housing benefit", preceded, where appropriate, by "an" instead of "a".

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

(a) regulation 11(12) and (13) (maximum rent), and

(b) regulation 75(1)(**a**) (duty to notify changes of circumstances).

PART 3

TRANSITIONAL AND SAVING PROVISIONS

Transitional provision

24.—(1) Paragraphs (2) and (3) apply in the case of a claimant whose, or whose partner's, benefit period ends before 5th April 2004.

(2) Where paragraph (1) applies, regulation 72(12) and (13)(**b**) of the Housing Benefit Regulations (time and manner in which claims are to be made) shall continue to have effect until 3rd May 2004.

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

(a) a claimant makes a claim for a further grant of housing benefit in accordance with regulation 72(12) of the Housing Benefit Regulations after 5th April 2004 but no later than 4 weeks after the end of the benefit period, or

(b) a relevant authority invites that claimant to make a claim for a further grant of housing benefit in accordance with regulation 72(13) of the Housing Benefit Regulations and following that invitation, a claim is received from that claimant after 5th April 2004 but no later than 4 weeks after the end of the benefit period,

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

Transitional provision for the Executive's rent decisions

25.—(1) If, on 5th April 2004, more than 52 weeks have elapsed since the Executive last made a rent decision in relation to a claimant's, or his partner's, claim for, or award of, housing benefit under regulation 10A of the Housing Benefit Regulations (decisions), the Executive shall make a rent decision as soon as is practicable after 5th April 2004.

(2) The Executive may make a rent decision under paragraph 4 of Schedule 7 to the Act in a case to which paragraph (1) applies.

(3) Where the Executive makes a rent decision under paragraph (2), in consequence of paragraph (1), the decision shall take effect –

(a) in a case where the amount of the rent decision has increased or remains unchanged, on 5th April 2004, or

(b) in a case where the amount of the rent decision has decreased, the first day of the benefit week following the date on which that decision was made by the Executive.

(**a**) Regulation 75(1) was amended by regulation 8(3)(a) of S.R. 2001 No. 175, regulation 4(h) of S.R. 2001 No. 215 and regulation 17(2)(c) of S.R. 2003 No. 294

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

Saving provision for extended payments

26.—(1) Paragraph (2) shall apply where a person or his partner is –

(a) treated as having made a claim under regulation 62A of the Housing Benefit Regulations (extended payments) before 5th April 2004, or

(b) in receipt of an extended payment under that regulation on 5th April 2004.

(2) Where paragraph (1) applies –

(a) subject to sub-paragraph (b), regulation 62A and Schedule 5A shall apply to him as in force immediately before 5th April 2004;

(b) sub-paragraphs (a) and (b) of paragraph (5) of regulation 62A shall have effect as if after "beneficiary", in each place where it occurs, there were inserted "or his partner", and

(c) sub-paragraph (b) of paragraph (5) of regulation 62A shall have effect as if for "deemed to be" until the end of that sub-paragraph there were substituted "treated as having been made in respect of a period beginning immediately after the end of the benefit period".

PART 4

AMENDMENT OF OTHER PROVISIONS

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

27. In regulation 16(1) of the Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1996(**a**) (savings provision) after "1st April 1996" there shall be added "but as if any references to a benefit period were references to an award of housing benefit".

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

28. In regulation 5 of the Housing Benefit (General) (Amendment No. 4) Regulations (Northern Ireland)1997(**b**) (savings) –

(a) in paragraph (2A)(**c**) "makes a further claim for housing benefit under regulation 72(11) to (13) of the principal Regulations, where he" shall be omitted, and

(b) in paragraph (2B)(**d**) after "principal Regulations" there shall be inserted "as in operation immediately before 5th April 2004".

Amendment of the Housing Benefit (State Pension Credit) Regulations

29. Regulations 9(b) of the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003(**e**) (provisions which do not apply) is hereby revoked.

Amendment of the Housing Benefit (State Pension Credit) (Abolition of Benefit Periods Amendment) Regulations

30. In the Housing Benefit (State Pension Credit) (Abolition of Benefit Periods Amendment) Regulations (Northern Ireland) 2003(**f**) Part 3 (transitory provisions), Part 4 (consequential and transitional provisions), except for regulations 6 and 11(a), and Part 5 (application and amendment of other provisions) are hereby revoked.

(**a**) S.R. 1996 No. 111
(**b**) S.R. 1997 No. 170; relevant amending regulations are S.R. 1997 No. 337 and S.R. 1998 No. 324
(**c**) Paragraph (2A) was inserted by regulation 2(4)(b) of S.R. 1997 No. 377
(**d**) Paragraph (2B) was inserted by regulation 2(4)(b) of S.R. 1997 No. 377 and amended by regulation 12(c) of S.R. 1998 No. 324
(**e**) S.R. 2003 No. 197
(**f**) S.R. 2003 No. 294

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

31.—(1) In regulation 7(**a**) of the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(**b**) (decisions superseding earlier decisions) after paragraph (2) there shall be inserted the following paragraph –

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

(2) In regulation 8(**c**) of the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001 (date from which a decision superseding an earlier decision takes effect) after paragraph (6) there shall be inserted the following paragraph –

"(6A) Except in a case where entitlement to housing benefit ceases, where an appropriate relevant authority has made a rent decision under regulation 10A of the Housing Benefit Regulations, any decision to which regulation 7(2ZA) applies which adopts that rent decision shall take effect from –

(a) in a case where the amount of the appropriate relevant authority's rent decision has increased or remains unchanged, and –

(i) rent is payable weekly or in multiples of weeks, the first day of the benefit week following the last day of the 52 week period has elapsed since the appropriate relevant authority made its last decision;

(ii) rent is payable other than in accordance with head (i), the first day following the last day of the 52 week period has elapsed since the appropriate relevant authority made its last decision;

(b) in a case where the amount of the appropriate relevant authority's rent decision has decreased, the first day of the benefit week following the date on which that rent decision was made by the appropriate relevant authority.".

Amendment of the Social Security (Back to Work Bonus and Lone Parent Run-on Amendment and Revocation) Regulations

32.—(1) Regulation 3 of the Social Security (Back to Work Bonus and Lone Parent Run-on Amendment and Revocation) Regulations (Northern Ireland) 2003(**d**) is hereby revoked.

Sealed with the Official Seal of the Department for Social Development on 26th March 2004.

(L.S.) *John O'Neill*
Senior Officer of the Department for Social Development

The Department of Finance and Personnel hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 29th March 2004.

(L.S.) *Ciaran Doran*
Senior Officer of the Department of Finance and Personnel

(**a**) Regulation 7 was amended by regulation 4(2) of S.R. 2003 No. 224 and regulation 22 of S.R. 2003 No. 294 which is revoked by regulation 30 of these Regulations
(**b**) S.R. 2001 No. 213; relevant amending Regulations are S.R. 2002 No. 80, S.R. 2003 Nos. 197, 224, 294 and 418
(**c**) Regulation 8 was amended by regulation 8(5) of S.R. 2002 No. 80, regulation 19 of S.R. 2003 No. 197, regulation 4(3) of S.R. 2003 No. 224 and regulation 4(5) of S.R. 2003 No. 418
(**d**) S.R. 2003 No. 367

SCHEDULE

PROVISIONS CONFERRING POWERS EXERCISED IN MAKING THESE REGULATIONS

Column (1) *Short title*	Column (2) *Provision*	Column (3) *Relevant amendments*
Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**)		
	Section 122(1)(d)	
	Section 129(2) to (4)	
	Section 131(1)	
	Section 132(3) and (4)	
	Section 132A	State Pension Credit Act (Northern Ireland) 2002(**b**), Schedule 2, paragraph 3
	Section 133(2)(i)	
	Section 171(3), (4), (5) and (6)	Social Security (Incapacity for Work) (Northern Ireland) Order 1994(**c**), Schedule 1, paragraph 36
Social Security Administration Act (Northen Ireland) 1992(**d**)		
	Sections 5(1)(a), (b), (d), (e), (h), (j), (k) and (l)	Social Security (Northern Ireland) Order 1998(**e**) Schedule 6, paragraph 60(1)(a)
	Section 73(2) and (4)	
	Section 165(4), (5) and (7)	
Social Security (Northern Ireland) Order 1998		
	Section 34(1) to (3)	State Pension Credit Act (Northern Ireland) 2002, Schedule 2, paragraph 30
	Section 74(3) and (5)	

(**a**) 1992 c. 7
(**b**) 2002 c. 14 (N.I.)
(**c**) S.I. 1994/1898 (N.I. 12)
(**d**) 1992 c. 8
(**e**) S.I. 1998/1506 (N.I. 10)

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Housing Benefit (General) Regulations (Northern Ireland) 1987 ("the Housing Benefit Regulations"), the Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1996, the Housing Benefit (General) (Amendment No. 4) Regulations (Northern Ireland) 1997, the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001, the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003, the Housing Benefit (State Pension Credit) (Abolition of Benefit Periods Amendment) Regulations (Northern Ireland) 2003 and the Social Security (Back to Work Bonus and Lone Parent Run-on Amendment and Revocation) Regulations (Northern Ireland) 2003.

These Regulations abolish benefit periods in housing benefit.

Part 2 (regulations 2 to 23) contains amendments to the Housing Benefit Regulations. Regulations 2 to 4, 5 to 9, 14 to 20, 22 and 23 amend provisions in the Housing Benefit Regulations, omitting references to benefit periods and making consequential changes. Regulation 10 amends the provisions in the Housing Benefit Regulations relating to extended payments. Regulation 11 inserts new provisions in the Housing Benefit Regulations making provision for a circumstance in which entitlement to benefit ceases. Regulation 12 revokes provisions in the Housing Benefit Regulations that relate to the setting and ending of benefit periods. Regulation 13 amends regulation 68 of the Housing Benefit Regulations to specify the date a change of circumstances will take effect where entitlement to housing benefit ends. This regulation also makes changes consequent upon the introduction of the continuing payment provisions in regulation 11. Regulation 21 amends Schedule 5A to the Housing Benefit Regulations consequential upon the changes made by regulation 10 to the extended payment provisions.

Part 3 (regulations 24 to 26) contains transitional and saving provisions. Regulation 24 contains transitional provisions for renewal claims for housing benefit. Regulation 25 contains transitional provisions for the Northern Ireland Housing Executive's rent decisions. Regulation 26 saves regulation 62A of, and Schedule 5A to the Housing Benefit Regulations for claimants who are treated as having claimed an extended payment or are in receipt of an extended payment on the date that these Regulations come into operation.

Part 4 (regulations 27 to 31) amends other Regulations. Regulation 27 amends regulation 16 of the Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1996, substituting for references to benefit periods references to awards of housing benefit. Regulation 28 amends regulation 5 of the Housing Benefit (General) (Amendment No. 4) Regulations (Northern Ireland) 1997 making changes consequential upon the abolition of benefit periods. Regulation 29 revokes regulations 9(b) of the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003. Regulation 30 revokes Parts 3, 4 and 5 (with listed exceptions) of the Housing Benefit (State Pension Credit) (Abolition of Benefit Periods Amendment) Regulations (Northern Ireland) 2003. Regulation 31 amends regulations 7 and 8 of the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001 to provide new effective dates for cases where a decision is superseded for a change of circumstances and that change is brought about because of a rent decision by the Northern Ireland Housing Executive. Regulation 32 revokes regulations 3 of the Social Security (Back to Work Bonus and Lone Parent Run-on Amendment and Revocation) Regulations (Northern Ireland) 2003.

These Regulations do not impose any charge on business.

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Published and printed in the UK by The
Stationery Office Limited
under the authority and
superintendence of Carol
Tullo, Controller of
Her Majesty's Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly

Dd. N1458. C2. 4/04. Gp. 130. 14567.

£3·00

ISBN 0-337-95476-3

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