STATUTORY RULES OF NORTHERN IRELAND

2008 No. 371

HOUSING; RATES

The Housing Benefit (Amendment) Regulations (Northern Ireland) 2008

Made - - - - 8th September 2008

Coming into operation 1st October 2008

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 5(1)(a) and (h), 107 and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(**1**) and now vested in it(**2**).

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it(**3**).

Citation, commencement and interpretation

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

(2) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Housing Benefit Regulations

2.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(**5**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 81 (time and manner in which claims are to be made)—

(a) in paragraph (1)(**6**) for "paragraph (4A)" substitute "paragraphs (4A) to (4AE)";

(**1**) 1992 c. 8; section 107 was substituted by Article 56 of the Social Security (Northern Ireland) Order 1998 (S.R. 1998/1506 (N.I. 10)) and amended by paragraph 5 of Schedule 4 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and paragraph 7 of Schedule 6 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and in section 165 subsection (1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and subsection (6) was amended by Schedule 7 to the Social Security (Northern Ireland) Order 1998

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

(**3**) *See* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992

(**4**) 1954 c. 33 (N.I.)

(**5**) S.R. 2006 No. 405; relevant amending Regulations are S.R. 2006 No. 462 and S.R. 2007 No. 467

(**6**) Paragraph (1) was amended by regulation 2(2)(a) of S.R. 2006 No. 462

(b) after paragraph (4A)(**7**) insert—

"(4AA) If the Department agrees, where—

(a) a person makes a claim for a benefit referred to in paragraph (4)(a); and

(b) the Department has made provision in the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**8**) for that benefit to be claimed by telephone,

that person may claim housing benefit by telephone to the telephone number specified by the Department.

(4AB) A claim for housing benefit may be made in accordance with paragraph (4AA) at any time before a decision has been made on the claim for the benefit referred to in paragraph (4)(a).

(4AC) If the Department agrees, where a person, in accordance with regulation 32 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**9**) (information to be given and changes to be notified)—

(a) furnishes the Department with such information or evidence as it may require; or

(b) notifies the Department of any change of circumstances,

that person may claim housing benefit in the same manner in which the information or evidence was furnished or the notification was given.

(4AD) If the Department agrees, where a person, in accordance with regulation 24 of the Jobseeker's Allowance Regulations(**10**) (provision of information and evidence)—

(a) furnishes the Department with such certificates, documents and other evidence as it may require; or

(b) notifies the Department of any change of circumstances,

that person may claim housing benefit in the same manner as the certificate, document and other evidence was furnished or the notification was given.

(4AE) A claim for housing benefit may be made in accordance with paragraph (4AC) or (4AD) at any time before a decision has been made on the award of benefit to which the information, evidence, certificates, documents or notification relates.";

(c) in paragraph (4B) after "by telephone" insert "in accordance with paragraph (4A)";

(d) after paragraph (4B) insert—

"(4BA) The relevant authority or the Department may determine that a claim made by telephone in accordance with paragraphs (4AA) to (4AE) is not a valid claim unless the person making the claim approves a written statement of his circumstances, provided for the purpose by the Department.";

(e) for paragraph (4C) substitute—

"(4C) A claim made by telephone in accordance with paragraphs (4A) to (4AE) is defective unless the relevant authority or the Department is provided with all the information requested during that telephone call.";

(**7**) Paragraphs (4A) to (4E) were inserted by regulation 2(2)(c) of S.R. 2006 No. 462
(**8**) S.R. 1987 No. 465
(**9**) Relevant amending Regulations are S.R. 1995 No. 367, S.R. 1996 No. 354, S.R. 2001 No. 175 and S.R. 2003 Nos. 191, 224, 317, 421 and 527
(**10**) Relevant amending Regulations are S.R. 1996 No. 358, S.R. 2000 Nos. 37, 255 and 350, S.R. 2001 No. 175 and S.R. 2006 No. 168

(f) in paragraph (4D) for "is to" substitute "must";

(g) after paragraph (4D) insert—

"(4DA) Where a claim made by telephone in accordance with paragraphs (4AA) to (4AE) is defective—

(a) the Department may provide the person making it with an opportunity to correct the defect;

(b) the relevant authority must provide the person making it with an opportunity to correct the defect if the Department has not already done so, unless the relevant authority considers that it has sufficient information to determine the claim.";

(h) in paragraph (4E) for "of the date it" substitute "of the date the relevant authority or the Department";

(i) after paragraph (4E) insert—

"(4F) If the person does not correct the defect within one month, or such longer period as the relevant authority considers reasonable, of the date the relevant authority or the Department last drew attention to it, the relevant authority may treat the claim as if it had been duly made in the first instance where it considers that it has sufficient information to determine the claim."; and

(j) for paragraph (5)(d) substitute—

"(d) except where sub-paragraph (a), (b) or (c) is satisfied, in a case where a properly completed claim is received in a designated office, an authorised office or an appropriate office within one month, or such longer period as the relevant authority considers reasonable, of the date on which—

(i) a claim form was issued to the claimant following the claimant first notifying, by whatever means, a designated office, an authorised office or an appropriate office of an intention to make a claim, or

(ii) a claimant notifies, by whatever means, a designated office, an authorised office or an appropriate office of an intention to make a claim by telephone in accordance with paragraphs (4A) to (4AE),

the date of first notification; and".

(3) For regulation 83(**11**) (amendment and withdrawal of claim) substitute—

"**83.**—(1) A person who has made a claim may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.

(2) Where the claim was made by telephone in accordance with paragraphs (4A) to (4AE) of regulation 81, the amendment may also be made by telephone.

(3) Any claim amended in accordance with paragraph (1) or (2) shall be treated as if it had been amended in the first instance.

(4) A person who has made a claim may withdraw it at any time before a decision has been made on it by notice to the designated office.

(5) Where the claim was made by telephone in accordance with paragraphs (4AA) to (4AE) of regulation 81, the withdrawal may also be made by telephone to the telephone number specified by the Department.

(6) Any notice of withdrawal given in accordance with paragraph (4) or (5) shall have effect when it is received.".

(**11**) Regulation 83 was amended by regulation 2(3) of S.R. 2006 No. 462