STATUTORY RULES OF NORTHERN IRELAND

2008 No. 285

HOUSING; RATES

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

Made - - - -	*4th July 2008*
Coming into operation	*6th October 2008*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by section 130(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and section 5(1) of the Social Security Administration (Northern Ireland) Act 1992(**2**), and now vested in it(**3**), and sections 32 and 33 of the Welfare Reform Act (Northern Ireland) 2007(**4**).

The Regulations are made with the consent of the Department of Finance and Personnel(**5**).

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

Citation, commencement and interpretation

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

(2) The Interpretation Act (Northern Ireland) 1954(**6**) 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(**7**) shall be amended in accordance with paragraphs (2) to (7).

(**1**) 1992 c. 7
(**2**) 1992 c. 8; section 5(1) was amended by Article 3(1) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)) and Article 70 of, and Schedule 7 to, the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))
(**3**) *See* Article 8(b) of S.R. 1999 No. 481
(**4**) 2007 c. 2 (N.I.)
(**5**) *See* section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993; *see also* Article 6(b) of S.R. 1999 No. 481
(**6**) 1954 c. 33 (N.I.)
(**7**) S.R. 2006 No. 405

(2) In regulation 2(1)(**8**) (interpretation)—

(a) for the definition of "extended payment" substitute—

""extended payment" means a payment of housing benefit payable pursuant to regulation 70;

"extended payment period" means the period for which an extended payment is payable in accordance with regulation 70A or 71A;";

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

""extended payment (qualifying contributory benefits)" means a payment of housing benefit payable pursuant to regulation 71;";

(c) omit the definition of "mover"; and

(d) after the definition of "the qualifying age for state pension credit" insert—

""qualifying contributory benefit" means—

(a) severe disablement allowance;

(b) incapacity benefit;

"qualifying income-related benefit" means—

(a) income support;

(b) income-based jobseeker's allowance;".

(3) In regulation 5 (persons who have attained the qualifying age for state pension credit)—

(a) omit paragraph (2); and

(b) in paragraph (3) for "paragraphs (1) and (2)" substitute "paragraph (1)".

(4) For regulation 70 (extended payments) substitute—

"**Extended Payments**

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

(a) the claimant or the claimant's partner was entitled to a qualifying income-related benefit;

(b) entitlement to a qualifying income-related benefit ceased because the claimant or the claimant's partner—

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

(ii) increased their earnings from such employment, or

(iii) increased the number of hours worked in such employment,

and that employment is or, as the case may be, increased earnings or increased number of hours are expected to last 5 weeks or more; and

(c) the claimant or the claimant's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.

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

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

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

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

(b) the day on which the claimant vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week; and

(c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed in paragraph (1)(b).

(4) This regulation shall not apply where, on the day before a claimant's entitlement to income support ceased, regulation 6(5) of the Income Support Regulations(**9**) (remunerative work: housing costs) applied to that claimant.

Duration of extended payment period

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

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

(3) The extended payment period ends—

(a) at the end of a period of 4 weeks; or

(b) on the date on which the claimant to whom the extended payment is payable has no liability for rent or rates, if that occurs first.

Amount of extended payment

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

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

(b) the claimant would be entitled under the general conditions of entitlement for any benefit week during the extended payment period, if regulation 70 did not apply to the claimant; or

(c) the claimant's partner would be entitled under the general conditions of entitlement, if regulation 70 did not apply to the claimant.

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

(3) Where—

(a) a claimant is entitled to an extended payment by virtue of regulation 70(3); and

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

(b) the last benefit week before the claimant ceased to be entitled to a qualifying income-related benefit was a week in which the claimant's eligible rent or rates was calculated in accordance with regulation 78(4)(c),

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

(4) Where—

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

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

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

(5) No extended payment is payable for any rent and rate-free period as defined in regulation 79(1)(**10**).

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

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

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

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

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

"**Extended payments (qualifying contributory benefits)**

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

(a) the claimant or the claimant's partner was entitled to a qualifying contributory benefit;

(b) entitlement to a qualifying contributory benefit ceased because the claimant or the claimant's partner—

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

(ii) increased their earnings from such employment, or

(iii) increased the number of hours worked in such employment,

and that employment is or, as the case may be, increased earnings or increased number of hours are expected to last 5 weeks or more;

(c) the claimant or the claimant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits

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

for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and

(d) the claimant or the claimant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last benefit week in which the claimant, or the claimant's partner, was entitled to a qualifying contributory benefit.

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

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

(b) the day on which the claimant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and

(c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in paragraph (1)(b).

Duration of extended payment period (qualifying contributory benefits)

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

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

(3) The extended payment period ends—

(a) at the end of a period of 4 weeks; or

(b) on the date on which the claimant to whom the extended payment (qualifying contributory benefits) is payable has no liability for rent or rates, if that occurs first.

Amount of extended payment (qualifying contributory benefits)

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

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

(b) the claimant would be entitled under the general conditions of entitlement for any benefit week during the extended payment period, if regulation 71 did not apply to the claimant; or

(c) the claimant's partner would be entitled under the general conditions of entitlement, if regulation 71 did not apply to the claimant.

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

(3) Where—

(a) a claimant is entitled to an extended payment (qualifying contributory benefits) by virtue of regulation 71(2); and