STATUTORY RULES OF NORTHERN IRELAND

# 2004 No. 144

# HOUSING; RATES

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

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| *Made - - - -* | *26th March 2004* |
| *Coming into operation* | *5th April 2004* |

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(**1**), paragraph 4(3) and (5) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**2**) and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**3**), and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(**4**), hereby makes the following Regulations:

## 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;

(**1**) *See* Article 8(b) of S.R. 1999 No. 481
(**2**) 2000 c. 4 (N.I.)
(**3**) *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
(**4**) *See* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

"relevant authority"(**5**) 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(**6**);

(3) The Interpretation Act (Northern Ireland) 1954(**7**) 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(**8**) (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(**9**) (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 – "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(**10**) (calculation of income on a weekly basis) "over the benefit period" shall be omitted.

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

(**6**) 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

(**7**) 1954 c. 33 (N.I.)

(**8**) 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

(**9**) 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

(**10**) 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

**Amendment of regulation 21A of the Housing Benefit Regulations**

**6.** In regulation 21A(3) of the Housing Benefit Regulations(**11**) (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(**12**) 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(**13**) (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(**14**) (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(**15**) (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

(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

(**11**) Regulation 21A was inserted by regulation 2(3) of S.R. 1994 No. 274
(**12**) Regulation 22 was amended by Schedule 1 of S.R. 2001 No. 215
(**13**) Paragraph (1) was amended by regulation 7 of S.R.1993 No. 381
(**14**) Paragraph (1) was amended by regulation 5 of S.R. 1989 No. 125
(**15**) Regulation 62A was inserted by regulation 3 of S.R. 1996 No. 115

(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(**16**) 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(**17**) (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) – ", or

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

(**16**) S.R. 1996 No. 111
(**17**) 2001 No. 78

(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(**18**) (date on which entitlement is to commence) there shall be inserted the following regulation –

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