STATUTORY RULES OF NORTHERN IRELAND

2003 No. 294

HOUSING; RATES

The Housing Benefit (State Pension Credit) (Abolition of Benefit Periods Amendment) Regulations (Northern Ireland) 2003

Made - - - -	*6th June 2003*
Coming into operation –	
for the puposes of Parts 1 and 3	*16th June 2003*
for all other purposes	*6th October 2003*

The Department for Social Development, in exercise of the powers conferred on it by the provisions specified in the Schedule to this Rule 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 those 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 (State Pension Credit) (Abolition of Benefit Periods Amendment) Regulations (Northern Ireland) 2003 and shall come into operation –

(a) for the purposes of Parts 1 and 3, on 16th June 2003, and

(**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)

(b) for all other purposes on 6th October 2003 immediately after the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003(**5**).

(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 force immediately before 6th October 2003;

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**6**);

"the qualifying age for state pension credit" means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act (Northern Ireland) 2002(**7**) –

(a) in the case of a woman, pensionable age, or

(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

"state pension credit" means state pension credit under the State Pension Credit Act (Northern Ireland) 2002, and

(3) The Interpretation Act (Northern Ireland) 1954(**8**) shall apply to these Regulations as it applies to an Act of the Assembly.

PART 2

Amendment of Housing Benefit Regulations

Housing Benefit Regulations

2.—(1) The Housing Benefit Regulations shall have effect, except where paragraph (2) applies, in relation to any person who has attained the qualifying age for state pension credit, subject to the modifications or amendments set out in this Part.

(2) This paragraph applies where the claimant or, if the claimant has a partner, his partner, is a person on income support or on an income-based jobseeker's allowance within the meaning of the Housing Benefit Regulations(**9**), as the case may be.

Continuing payments where state pension credit claimed

3. In regulation 62B of the Housing Benefit Regulations(**10**) (continuing payments where state pension credit claimed) –

(a) in paragraph (3) for "In" there shall be substituted "Subject to paragraph (3A), in";

(b) after paragraph (3), there shall be inserted –

(**5**) S.R. 2003 No. 197
(**6**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1989 No. 125, S.R. 1990 No.137, S.R. 1991 No. 47, S.R. 1992 No. 141, S.R. 1993 No. 149, S.R. 1996 Nos. 111, 115 and 334, S.R. 1999 Nos. 381 and 416, S.R. 2000 Nos. 1, 265 and 365, S.R. 2001 Nos. 79, 99, 151, 175, 215 and 238, S.R. 2002 No. 80 and S.R. 2003 Nos. 189 and 197
(**7**) 2002 c. 14 (N.I.)
(**8**) 1954 c. 33 (N.I.)
(**9**) *See* regulation 2(1) and (3A); paragraph (3A) was inserted by regulation 2(b) of S.R. 1996 No. 334 and amended by regulation 3(a) and (b) of S.R. 2000 No. 365 and regulation 4(3) of S.R. 2002 No. 80
(**10**) Regulation 62B was inserted by regulation 10 of S.R. 2003 No. 197

"(3A) Where housing benefit is paid for the period of 4 weeks in accordance with paragraph (3), and the last day of that period falls on a day other than the last day of a benefit week, then housing benefit shall continue to be paid until the end of the benefit week in which the last day of that period falls.", and

(c) in paragraph (4) after "in paragraph (3)" there shall be inserted "and any further period specified in paragraph (3A)".

PART 3

Transitory Provisions

Transitory Provision

4.—(1) This regulation applies in the case of a claimant –

(a) who has attained the qualifying age for state pension credit on or before 6th October 2003, and

(b) whose benefit period is due to end in the period beginning on and including 16th June 2003 and ending on 5th October 2003.

(2) Where this regulation applies the appropriate relevant authority, where it considers it appropriate to do so and upon its own initiative, may make a decision under paragraph 4 of Schedule 7 to the Act (decisions superseding earlier decisions).

(3) Where the effect of the decision made in accordance with paragraph (2) is that the benefit period is to be extended, a decision to which paragraph (2) applies shall take effect on the day immediately after the day on which the benefit period would have expired but for the decision made in accordance with this regulation.

(4) Where this regulation applies and the appropriate relevant authority considers it appropriate to make a decision under paragraph (2), the provisions in regulation 72(13)(a) and (b) of the Housing Benefit Regulations(**11**) (time and manner in which claims are to be made) shall not apply.

Extension of benefit period

5. Where regulation 4(1) applies regulation 66(3) of the Housing Benefit Regulations(**12**) (benefit period) shall have effect as if the reference to "60 benefit weeks" were a reference to "85 benefit weeks".

PART 4

Consequential and Transitional Provisions

Application of this Part

6.—(1) This Part shall have effect, except where paragraph (2) applies, in relation to a person who has attained the qualifying age for state pension credit.

(**11**) Paragraph (13)(a) and (b) 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) and (ii) of S.R. 1999 No. 381 and Schedule 1 to S.R. 2001 No. 215

(**12**) Paragraph (3) was amended by regulation 5(a) of S.R. 2000 No. 1

(2) This paragraph applies where the claimant or, if the claimant has a partner, his partner, is a person on income support or on an income-based jobseeker's allowance within the meaning of the Housing Benefit Regulations.

Amendment of regulation 2 of the Housing Benefit Regulations

7. In regulation 2(1) of the Housing Benefit Regulations (interpretation) –

(a) the definition of "benefit period" shall be omitted,

(b) after the definition of "Preparation for Employment Programme for 50 plus"(**13**) there shall be inserted the following definition –

> ""the qualifying age for state pension credit" means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act (Northern Ireland) 2002 –
>
> (a) in the case of a woman, pensionable age, or
>
> (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;".

Amendment of regulation 7 of the Housing Benefit Regulations

8. In regulation 7(12) of the Housing Benefit Regulations(**14**) (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 of the paragraph shall be omitted.

Amendment of regulation 11 of the Housing Benefit Regulations

9. In regulation 11(6) of the Housing Benefit Regulations(**15**) (maximum rent) –

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

(b) for the words after sub-paragraph (b) there shall be substituted –

> "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 date that the Executive next makes a decision 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 date that the Executive next makes a decision under regulation 10A.".

Extended payments

10. In regulation 62A of the Housing Benefit Regulations(**16**) (extended payments) after paragraph (5), there shall be inserted the following paragraph –

> "(5A) Where a person attains the qualifying age for state pension credit during the period of an extended payment made to him or his partner under this regulation, paragraph (5)(b)(**17**) shall have effect as if –

(**13**) Definition of "Preparation for Employment Programme for 50 plus" was inserted by regulation 13(2)(a) and (3)(a) of S.R. 2001 No. 151

(**14**) Paragraph (12) was added by regulation 3(4)(c) of S.R. 1993 No. 149

(**15**) Regulation 11 was inserted by regulation 7 of S.R. 1996 No. 111 and paragraph (6) was amended by regulations 4(c)(i) and 5(a) of S.R. 2001 No. 215

(**16**) Regulation 62A was inserted by regulation 3 of S.R. 1996 No. 115

(**17**) Paragraph (5)(b) was amended by regulation 4(2)(c)(ii) of S.R. 1999 No. 381

(a) after "beneficiary" there were inserted "or his partner"; and

(b) for the words from "deemed to be" to 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.".".

Change of circumstances

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

(a) in paragraph (1)(**18**) for "regulation 8(3) (eligible housing costs) or regulation 26" there shall be substituted "regulation 29"(**19**);

(b) at the beginning of paragraphs (2)(**20**), (3)(**21**) and (4)(**22**) there shall be inserted "Subject to paragraphs (13) and (14),";

(c) after paragraph (12)(**23**) the following paragraphs shall be added –

"(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.

(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

12. Subject to regulation 19, in the Housing Benefit Regulations –

(a) in regulation 65(1)(**24**) (date on which entitlement is to commence) "regulation 72(11) to (13) (renewal claims) and" shall be omitted, and

(b) in regulation 72 (time and manner in which claims are to be made) paragraphs (11) to (13A)(**25**) shall be omitted.

Amendment of regulation 76 of the Housing Benefit Regulations

13. Regulation 76(2)(d) of the Housing Benefit Regulations (who is to make a decision) shall be omitted.

Amendment of regulation 104 of the Housing Benefit Regulations

14. Regulation 104(2) of the Housing Benefit Regulations(**26**) (sums to be deducted in calculating recoverable overpayments) shall be omitted.

(**18**) Paragraph (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 and regulation 13(2) of S.R. 2003 No. 197

(**19**) Regulation 29 was substituted, in relation to those who have attained the qualifying age for state pension credit, by regulation 8 of S.R. 2003 No. 197

(**20**) Paragraph (2) was amended by regulation 8(a)(ii) of S.R. 2001 No. 215

(**21**) Paragraph (3) was substituted by regulation 7(b) of S.R. 1992 No. 141

(**22**) Paragraph (4) was amended by regulation 7(c) of S.R. 1992 No. 141

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

(**24**) Paragraph (1) was amended by regulation 4(3)(a) of S.R. 1990 No. 137

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

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