STATUTORY RULES OF NORTHERN IRELAND

2001 No. 214

HOUSING; RATES

The Housing Benefit (Decisions and Appeals) (Transitional and Savings) Regulations (Northern Ireland) 2001

Made - - - -	*18th May 2001*
Coming into operation	*2nd July 2001*

The Department for Social Development, in exercise of the powers conferred on it by Article 166 of the Pensions (Northern Ireland) Order 1995(**1**) and section 68(3)(b) to (5) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**2**) and now vested in it(**3**) and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**4**), by this statutory rule, which contains only regulations made by virtue of, or consequential upon, section 68(3)(b) to (5) of that Act, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Decisions and Appeals) (Transitional and Savings) Regulations (Northern Ireland) 2001 and shall come into operation on 2nd July 2001.

(2) In these Regulations—

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

"the Decisions and Appeals Regulations" means the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(**5**);

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

(**1**) S.I.1995/3213 (N.I. 22); Article 166 of the Pensions (Northern Ireland) Order 1995 applies to regulations under section 68(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 by virtue of section 68(5) of that Act

(**2**) 2000 c. 4

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

(**4**) *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 (S.I. 1993/1579 (N.I. 8)); *see* also Article 6(b) of S.R. 1999 No. 481

(**5**) S.R. 2001 No. 213

(**6**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1992 No. 141, S.R. 1993 No. 218, S.R. 1994 No. 335, S.R. 1995 No. 89, S.R. 1996 No. 334, S.R. 1997 No. 452, S.R. 1999 No. 472 (C. 36) and S.R. 2001 No. 176

"panel member" means a person appointed to a panel constituted under Article 7 of the Social Security (Northern Ireland) Order 1998(**7**);

"person affected" has the meaning as in regulation 3 of the Decisions and Appeals Regulations (person treated as a person affected by a decision);

"relevant authority" has the meaning as in paragraph 1(1) of Schedule 7 to the Act;

"relevant date" means 2nd July 2001;

"Review Board" shall, notwithstanding the revocation of regulation 81(3) of the Housing Benefit Regulations(**8**) (further review of determinations), be construed in accordance with that provision;

"the Work-focused Interviews Regulations" means the Social Security (Work-focused Interviews) Regulations (Northern Ireland) 2001(**9**).

Provision in respect of reviews of determinations made by relevant authorities

2.—(1) Subject to the following paragraphs and notwithstanding regulation 4(1)(*a*) of the Decisions and Appeals Regulations (revision of decisions), where a person affected makes written representations signed by him to a relevant authority concerning a determination made by that authority before the relevant date and—

(a) such representations are made within six weeks of the date on which the person was notified of that determination or within such longer period as may be allowed under paragraph (5), those representations shall be treated as an application duly made for a revision under paragraph 3 of Schedule 7 to the Act (revision of decisions), or

(b) such representations are not made within the period provided by virtue of sub-paragraph (*a*) or allowed under paragraph (5), those representations shall be treated as an application duly made for a supersession under paragraph 4 of Schedule 7 to the Act (decisions superseding earlier decisions).

(2) Paragraph (1) shall—

(a) apply only in a case to which regulation 79(2) of the Housing Benefit Regulations(**10**) (review of determinations) could have applied had Schedule 7 to the Act and regulations made thereunder not come into operation;

(b) not apply in a case where a review of the determination was made under regulation 79(2) of the Housing Benefit Regulations before the relevant date.

(3) Where a person makes written representations signed by him to a relevant authority concerning a determination made by them before the relevant date and that authority—

(a) accepted the late submission of those representations in accordance with regulation 78(3) of the Housing Benefit Regulations(**11**) (extension of time limit) before the relevant date, and

(b) made no determination in respect of those representations before the relevant date,

those representations shall be treated as an application duly made for a revision under paragraph 3 of Schedule 7 to the Act.

(**7**) S.I. 1998/1506 (N.I. 10)
(**8**) Regulation 81(3) was amended by paragraph 5(*a*) of Schedule 2 to S.R. 2001 No. 176
(**9**) S.R. 2001 No. 176; the Social Security (Work-focused Interviews) Regulations (Northern Ireland) 2001 apply to unemployed persons under the age of 60 living in an area identified in Schedule 1 to those Regulations who make a claim for income support, housing benefit or incapacity benefit
(**10**) Regulation 79(2) was amended by regulation 11(*a*) of S.R. 1992 No. 141, regulation 2(2)(*c*) of S.R. 1993 No. 218 and regulation 7(*a*) of S.R. 1994 No. 335
(**11**) Regulation 78(3) was amended by regulation 10 of S.R. 1992 No. 141

(4) For the purposes of calculating the period of six weeks in paragraph (1)(*a*), no account shall be taken of any period beginning with, and including, the receipt by a relevant authority of a request for a statement under regulation 77(4) of the Housing Benefit Regulations(**12**) (request for statement of reasons) and ending with the provision to that person of that statement.

(5) The period of six weeks specified in paragraph (1)(*a*) may be extended where an application for such an extension is made before 2nd August 2002 by a person affected and the application contains—

(a) the grounds on which an extension of time is sought, and

(b) sufficient details of the determination to enable it to be identified.

(6) An application for an extension of time shall be made in writing by the person affected and delivered, by whatever means, to the relevant authority or, in a case to which the Work-focused Interviews Regulations apply, either to the relevant authority or to an office of a designated authority which displays the

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logo(**13**).

(7) An application for an extension of time shall not be granted unless the relevant authority which made the determination to which the representations relate is satisfied that—

(a) it is reasonable to grant that application;

(b) the representations have merit, and

(c) special circumstances are relevant to the application for an extension of time as a result of which it was not practicable for the representations to be made within the six week period specified in paragraph (1)(*a*).

(8) In deciding whether to grant an extension of time no account shall be taken of the following factors—

(a) that the person affected was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits specified in paragraph (1)(*a*)), or

(b) that a court has taken a different view of the law from that previously understood and applied by the relevant authority.

(9) An application under this regulation for an extension of time which has been refused may not be renewed.

Provision in respect of requests for further review of determinations

3.—(1) Subject to the following paragraphs and notwithstanding regulation 23 of the Decisions and Appeals Regulations (procedure in connection with appeals), where a person affected gives or sends written notice signed by him to a relevant authority requesting a further review of a determination ("reviewed determination"), that notice shall be treated as an application duly made for an appeal to an appeal tribunal from a relevant decision.

(2) Paragraph (1) shall—

(a) apply only in a case to which regulation 81(3) of the Housing Benefit Regulations (further review by Review Board) could have applied had Schedule 7 to the Act and regulations made thereunder not come into operation;

(**12**) Paragraph (4) was added by regulation 9 of S.R. 1992 No. 141 and amended by regulation 6 of S.R. 1994 No. 335

(**13**) The service was introduced in postcode areas specified in Schedule 1 to S.R. 2001 No. 175 and the office is located at Crown Building, Thomas Street, Dungannon, Co. Tyrone BT70 1EN