Regulations made by the Department for Social Development and laid before the Assembly under Article 75(2)(a) of the Social Security (Northern Ireland) Order 1998 and section 59 of, and paragraph 20(4) of Schedule 7 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 for approval of the Assembly before the expiration of 6 months from the date of their coming into operation.

STATUTORY RULES OF NORTHERN IRELAND

2001 No. 213

HOUSING; RATES

The Housing Benefit (Decisions and Appeals) 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 section 5(1)(hh) of the Social Security Administration (Northern Ireland) Act 1992(**1**), Articles 8(6)(a) and 74(3) to (6) of the Social Security (Northern Ireland) Order 1998(**2**) and section 59 of, and paragraphs 3(1), (4) and (6), 4(3) and (5), 6(2)(c), (4), (7) and (8), 8(7)(c) and (8), 10(1), 12, 13, 14(2), 15, 16(3) and (5), 19(1), 20(1)(b) and (3) and 23(2) of Schedule 7 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**3**) and now vested in it(**4**) and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**5**), by this statutory rule, which contains only regulations made by virtue of, or consequential upon, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000, hereby makes the following Regulations:

(**1**) 1992 c. 8; section 5(1)(hh) was inserted by Article 70 of the Social Security (Northern Ireland) Order 1998
(**2**) S.I.1998/1506 (N.I. 10)
(**3**) 2000 c. 4 (N.I.)
(**4**) *See* Article 8(b) of S.R. 1999 No. 481
(**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 (S.I. 1993/1579 (N.I. 8)); *see* also Article 6(*b*) of S.R. 1999 No. 481

Part I

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Decisions and Appeals) 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 Administration Act" means the Social Security Administration (Northern Ireland) Act 1992;

"appeal" means an appeal to an appeal tribunal;

"appropriate relevant authority" has the meaning it has in paragraph 4 of Schedule 7 to the Act;

"benefit week" means a period of seven consecutive days commencing on a Monday and ending on a Sunday;

"claimant" means a person claiming housing benefit;

"clerk to the appeal tribunal" means a clerk assigned to an appeal tribunal in accordance with regulation 37 of the Decisions and Appeals Regulations 1999;

"Decisions and Appeals Regulations 1999" means the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**6**);

"designated authority" has the meaning it has in regulation 1(2) of the Work-focused Interviews Regulations;

"financially qualified panel member" means a panel member who is an accountant and a member of—

(a) the Institute of Chartered Accountants in England and Wales;

(b) the Institute of Chartered Accountants in Scotland;

(c) the Institute of Chartered Accountants in Ireland;

(d) the Association of Chartered Certified Accountants;

(e) the Chartered Institute of Management Accountants, or

(f) the Chartered Institute of Public Finance and Accountancy;

"Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**7**);

"legally qualified panel member" means a panel member who is a barrister or solicitor;

"official error" means an error made by—

(a) a relevant authority or a person—

(i) authorised to carry out any function of a relevant authority relating to housing benefit, or

(ii) providing services relating to housing benefit directly or indirectly to a relevant authority;

(b) an officer of—

(**6**) S.R. 1999 No. 162

(**7**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1988 No. 117, S.R. 1990 No. 137, S.R. 1991 Nos. 47 and 176, S.R. 1992 Nos. 141, 201 and 404, S.R. 1993 No. 233, S.R. 1994 Nos. 88 and 335, S.R. 1995 No. 367, S.R. 1996 Nos. 181, 334, and 448, S.R. 1997 Nos. 22 and 452, S.R. 1999 No. 416 and S.R. 2001 No. 176

(i) the Department;

(ii) the Commissioners of Inland Revenue, or

(iii) the Department of Higher and Further Education, Training and Employment, acting as such;

(c) a person employed by a designated authority acting on behalf of the authority,

but excludes any error caused wholly or partly by any person or body not specified in paragraphs (*a*) to (*c*) and any error of law which is shown to have been an error only by virtue of a subsequent decision of a Commissioner (construed in accordance with paragraph 23(1) of Schedule 7 to the Act) or the court;

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

"partner" means—

(a) where a claimant is a member of a married or unmarried couple, the other member of that couple, or

(b) where a claimant is polygamously married to two or more members of his household, any such member;

"person affected" shall be construed in accordance with regulation 3;

"President" means the President of appeal tribunals appointed under Article 6 of the Social Security (Northern Ireland) Order 1998;

"principal parties" has the same meaning as in paragraph 7(4) of Schedule 7 to the Act;

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

"relevant decision" has the same meaning as in paragraph 1(2) of Schedule 7 to the Act;

"work-focused interview" has the same meaning as in regulation 2 of the Work-focused Interviews Regulations;

"the Work-focused Interviews Regulations" means the Social Security (Work-focused Interviews) Regulations (Northern Ireland) 2001(**8**).

(3) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to an Act of the Assembly.

Service of notices or documents

2. Where, by or in consequence of, any provision of these Regulations or Schedule 7 to the Act—

(a) any notice or other document is required to be given or sent to the clerk to the appeal tribunal, the Department or the relevant authority, that notice or document shall be treated as having been so given or sent on the day that it is received by the clerk to the appeal tribunal, the Department or the relevant authority, as the case may be, and

(b) any notice (including notification of a decision of a relevant authority) or other document is required to be given or sent to any person other than the clerk to the appeal tribunal, the Department or the relevant authority, as the case may be, that notice or document shall, if sent by post to that person's last known address, be treated as having been so given or sent on the day it was posted.

(**8**) S.R. 2001 No. 176
(**9**) 1954 c. 33 (N.I.)

Person treated as a person affected by a decision

3.—(1) For the purposes of Schedule 7 to the Act and subject to paragraph (2), a person is to be treated as a person affected by a relevant decision of a relevant authority where that person is—

(a) a claimant;

(b) in the case of a person who is liable to make payments in respect of a dwelling and is unable for the time being to act—

(i) a controller appointed by the High Court with power to claim or, as the case may be, receive benefit on his behalf, or

(ii) an attorney, with a general power or a power to receive benefit, appointed by the person liable to make those payments under the Powers of Attorney Act (Northern Ireland) 1971(**10**) or the Enduring Powers of Attorney (Northern Ireland) Order 1987(**11**);

(c) a person appointed by the relevant authority under regulation 71(3) of the Housing Benefit Regulations (appointments for persons unable to act);

(d) a person from whom the relevant authority determines that an overpayment is recoverable in accordance with Part XIII of the Housing Benefit Regulations, or

(e) a landlord or agent acting on behalf of that landlord and that decision is made under regulation 93(**12**) or 94(**13**) of the Housing Benefit Regulations (circumstances in which payment is or may be made to a landlord).

(2) Paragraph (1) only applies in relation to a person referred to in paragraph (1) where the rights, duties or obligations of that person are affected by a relevant decision.

Part II

Revisions and Supersessions

Revision of decisions

4.—(1) Subject to the provisions in this regulation, a relevant decision ("the original decision") may be revised or further revised by the relevant authority which made the decision where—

(a) the person affected makes an application for a revision within—

(i) one month of the date of notification of the original decision, or

(ii) such extended time as the relevant authority may allow under regulation 5;

(b) within one month of the date of notification of the original decision that authority has information which is sufficient to show that the original decision was made in ignorance of, or was based upon a mistake as to, some material fact, or

(c) an appeal is made under paragraph 6 of Schedule 7 to the Act against the original decision within the time prescribed in regulation 18 or, in a case to which regulation 19 applies the time prescribed in that regulation, but the appeal has not been determined.

(2) An original decision may be revised or further revised by the relevant authority which made the decision, at any time by that authority, where that decision—

(**10**) 1971 c. 33 (N.I.)
(**11**) S.I. 1987/1627 (N.I. 16)
(**12**) Regulation 93 was amended by regulation 16 of S.R. 1996 No. 334, regulation 7(*g*) of S.R. 1996 No. 448, regulation 11 of S.R. 1997 No. 22 and regulation 2 of S.R. 1997 No. 452
(**13**) Regulation 94 was amended by regulation 10 of S.R. 1994 No. 335, regulation 7 of S.R. 1996 No. 181, regulation 7(*g*) of S.R. 1996 No. 448, regulation 12 of S.R. 1997 No. 22 and regulation 3 of S.R. 1997 No. 452

(a) arose from an official error, or

(b) was made in ignorance of, or was based upon a mistake as to, some material fact and as a result of that ignorance of or mistake as to that fact, the decision was more advantageous to the person affected than it would otherwise have been but for that ignorance or mistake.

(3) For the purposes of calculating the period in paragraph (1)(*a*)(i), where a written statement is requested under regulation 10, no account shall be taken of any period beginning with the day on which the relevant authority received the request for a statement and ending with the day on which that statement was provided to that person.

(4) Where the relevant authority requires further evidence or information in order to consider all the issues raised by an application under paragraph (1)(*a*) ("the original application"), that authority shall notify the applicant that further evidence or information is required and, if it does so, the decision may be revised—

(a) where the evidence or information so requested is provided within one month of the date of the notification or such longer period as the relevant authority may allow, or

(b) where such evidence or information is not provided within the period referred to in sub-paragraph (*a*), on the basis of the original application.

(5) A relevant decision that is prescribed under paragraph 6(2)(*c*) or (4)(*a*) of Schedule 7 to the Act may be revised at any time.

(6) A relevant decision made in respect of a claim or an award may be revised where—

(a) a decision in respect of that claim or that award is given by an appeal tribunal, Commissioner or court on appeal against a decision ("decision A");

(b) the relevant decision was made after decision A, and

(c) the relevant decision would have been made differently had the relevant authority been aware of that appeal decision at the time it made the relevant decision.

(7) An application for a revision shall be made in writing 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(**14**).

(8) The relevant authority may treat an application for a supersession as an application for a revision.

(9) Paragraph (1) shall not apply in respect of a change of circumstances which occurred since the decision was made or where the relevant authority has evidence or information which indicates that a relevant change of circumstances will occur.

Late application for a revision

5.—(1) The time limit for making an application for a revision specified in regulation 4 may be extended where the conditions specified in paragraphs (2) to (8) are satisfied.

(2) An application for an extension of time ("the application") shall be made in writing by the person affected by a relevant decision.

(**14**) The

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service was introduced in postcode areas specified in Schedule 1 to S.R. 2001 No. 175 and the

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office is located at Crown Building, Thomas Street, Dungannon, Co. Tyrone BT 70 1EN