
STATUTORY RULES OF NORTHERN IRELAND

2003 No. 197

**The Housing Benefit (State Pension Credit)
Regulations (Northern Ireland) 2003**

PART IV

CONSEQUENTIAL AND TRANSITIONAL PROVISIONS

Date on which change of circumstances is to take effect

13.—(1) Regulation 68 of the Housing Benefit Regulations (date on which change of circumstances is to take effect) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1)(1) for “and subject to paragraphs (1A)(2) to (8)” there shall be substituted “and subject to paragraphs (3) to (12)”.

(3) After paragraph (8) there shall be added the following paragraphs –

(9) Paragraph (10) applies if –

- (a) the claimant or his partner has attained the age of 65, and
- (b) since the date in respect of which the claimant’s entitlement to housing benefit first began or, if later, the anniversary date –
 - (i) a non-dependant took up residence in the claimant’s dwelling, or
 - (ii) the income of a non-dependant increased so that the amount of the deduction which falls to be made under regulation 63 (non-dependant deductions) increased.

(10) Where this paragraph applies, the change of circumstances shall take effect from the next anniversary date following the change specified in paragraph (9)(b).

(11) In paragraphs (9) and (10) but subject to paragraph (12), “anniversary date” means –

- (a) in the case of a person whose entitlement to housing benefit began before 6th October 2003, the anniversary of the date of the last decision made by the relevant authority before 6th October 2003 awarding the claimant housing benefit;
- (b) in the case of a person who claimed housing benefit on or after 6th October 2003 but before 6th October 2004 and whose award took effect from 6th October 2003, the anniversary of the date the decision on that claim was made by the relevant authority, or
- (c) in any other case, the anniversary of the date in respect of which the claimant’s entitlement to housing benefit first began.

(12) If in any particular case the date determined under sub-paragraphs (a) to (c) is not the first day of a benefit week, the anniversary date in that case shall be the first day of the next benefit week to commence after the date determined under those paragraphs.

(4) After regulation 68A(3) (date of change of circumstances following decision as to whether a person took part in a work-focused interview) there shall be inserted the following regulation –

“Change of circumstances where state pension credit payable

68B.—(1) Paragraphs (2) to (8) apply where –

- (a) the claimant is also on state pension credit;
- (b) the amount of state pension credit awarded to him is changed in consequence of a change in the claimant’s circumstances or the correction of an official error, and
- (c) the change in the amount of state pension credit payable to the claimant results in a change in the rate of housing benefit payable to the claimant.

(2) Where the change of circumstance is that an increase in the amount of state pension credit payable to the claimant results in an increase in the rate at which housing benefit is payable to him, the change shall take effect from the first day of the benefit week in which state pension credit becomes payable at the increased rate.

(3) Where the change of circumstance is that the claimant’s state pension credit is reduced and in consequence the rate of housing benefit payable to the claimant reduces –

- (a) in a case where the claimant’s state pension credit is reduced because the claimant failed to notify the Department timeously of the change of circumstances, the change shall take effect from the first day of the benefit week from which state pension credit was reduced, or
- (b) in any other case, the change shall take effect from the first day of the benefit week next following the date on which the relevant authority receives notification from the Department of the change.

(4) Where the change of circumstance is that –

- (a) state pension credit is reduced, and
- (b) in consequence of the change, the rate of housing benefit payable to the claimant is increased,

the change shall take effect from the first day of the benefit week in which state pension credit becomes payable at the reduced rate.

(5) Where the change of circumstance is that an award of state pension credit has been made to the claimant or his partner and this has resulted in a decrease in the rate of housing benefit payable to the claimant, the change shall take effect from the first day of the benefit week next following the date on which the relevant authority receives notification from the Department of the award.

(6) Where the change of circumstances is that a guarantee credit has been awarded to the claimant or his partner and this has resulted in a decrease in the rate of housing benefit payable to the claimant, the change shall take effect from the first day of the benefit week next following the date in respect of which the guarantee credit is first payable.

(7) Where a change of circumstances would, but for this paragraph, take effect under the preceding provisions of this regulation within the 4 week period specified in regulation 62B(4) (continuing payments where state pension credit claimed), that change shall take effect on the first day of the first benefit week to commence after the expiry of the 4 week period.

(8) In paragraph (1) “official error” has the meaning it has in the Decisions and Appeals Regulations by virtue of regulation 1(2) of those Regulations.”.

(3) Regulation 68A was inserted by paragraph 3(2) of Schedule 2 to S.R. 2001 No. 176

(4) Regulations 62B was inserted by regulation 10 of these Regulations

Time claims are made or treated as made

14. In regulation 72 of the Housing Benefit Regulations (time and manner in which claims are to be made) –

(a) in paragraph (5)(5) –

(i) in sub-paragraph (a), after the words “income support” wherever they occur, there shall be inserted “, state pension credit which comprises a guarantee credit”;

(ii) after sub-paragraph (aa)(6) there shall be inserted the following sub-paragraph –

“(aaa) in a case where the claimant or his partner claimed state pension credit and either there was no entitlement to state pension credit or there was entitlement only to a savings credit, the date on which the claim is received at the appropriate office or the designated office whichever is the earlier”;

(iii) in sub-paragraph (bb)(7) after “income support” there shall be inserted “, in receipt of a guaranteed credit”;

(b) after paragraph (10) there shall be inserted the following paragraph –

“(10A) In the case of a person who has attained, or whose partner has attained, the age of 59 years and 35 weeks, paragraph (10) shall apply as if for the reference to the thirteenth benefit week, there was substituted a reference to the seventeenth benefit week.”.

Notification of change of circumstances

15. In regulation 75 of the Housing Benefit Regulations (duty to notify change of circumstances) –

(a) in paragraph (1)(8) for “(2) and (4)” there shall be substituted “(2), (4) to (6)”;

(b) after paragraph (4)(9) there shall be added the following paragraphs –

“(5) A person on housing benefit who is also on state pension credit must report –

(a) changes to his tenancy, but not changes in the amount of rent payable to the Executive;

(b) changes affecting the residence or income of any non-dependant normally residing with the claimant or with whom the claimant normally resides;

(c) any absence from the dwelling which exceeds or is likely to exceed 13 weeks.

(6) In addition to the changes required to be reported under paragraph (5), a person whose state pension credit comprises only a savings credit must also report –

(a) changes affecting a child living with him which may result in a change in the amount of housing benefit payable in his case, but not changes in the age of the child;

(b) changes affecting child tax credit, child special allowance or child benefit;

(c) any change in the amount of the claimant’s capital to be taken into account which does or may take the amount of his capital to more than £16,000;

(d) any change in the income or capital of –

(5) Paragraph (5) was amended by regulation 4(4)(a) of S.R. 1990 No. 137, regulation 9(a) of S.R. 1991 No. 47, regulation 3(a) of S.R. 1991 No. 176 and regulation 13(b) of S.R. 1996 No. 334

(6) Sub-paragraph (aa) was added by regulation 3 of S.R. 2003 No. 80

(7) Sub-paragraph (bb) was inserted by regulation 9(a) of S.R. 1991 No. 47 and amended by regulation 13(b)(ii)(c) of S.R. 1996 No. 334

(8) Paragraph (1) was amended by regulation 8(3)(a) of S.R. 2001 No. 175 and regulation 4(h) of S.R. 2001 No. 215

(9) Paragraph (4) was added by regulation 8(3)(b) of S.R. 2001 No. 175

- (i) a non-dependant whose income and capital are treated as belonging to the claimant in accordance with regulation 20 (circumstances in which income and capital of a non-dependant is to be treated as claimant's), or
 - (ii) a person to whom regulation 23(4)(d) refers,
- and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the claimant.
- (7) A person who is on housing benefit and on state pension credit need only report to the designated office the changes specified in paragraphs (5) and (6).”.

Decisions

16.—(1) In Part II of Schedule 6 to the Housing Benefit Regulations (matters to be included in the decision notice: awards where income support or an income-based jobseeker’s allowance is payable) –

- (a) in the heading after “income support” there shall be inserted “, state pension credit”;
 - (b) paragraph 9(10) shall be renumbered 9(1);
 - (c) in the re-numbered paragraph 9(1) after “income support” there shall be inserted “, state pension credit”.
- (2) After paragraph 9(1) there shall be inserted the following sub-paragraph –
- “(2) In a case where a person on state pension credit has entitlement only to the savings credit, the following additional matters shall also be set out –
- (a) the applicable amount and the basis of the calculation;
 - (b) the amount of the savings credit and any child tax credit, child benefit or child special allowance taken into account;
 - (c) the amount of the person’s income and capital as notified to the relevant authority by the Department and taken into account for the purposes of the housing benefit assessment;
 - (d) any modification of the claimant’s income or capital made in accordance with regulation 23(11) (calculation of claimant’s income and capital in savings credit only cases);
 - (e) the amount of the claimant’s capital if regulation 23(7)(12) applies in his case.”.

Amendments relating to recovery of overpaid housing benefit

17. In regulation 105(1)(13) of the Housing Benefit Regulations (recovery of overpayment from prescribed benefits) at the end there shall be added the following sub-paragraph –

- “(f) state pension credit.”.

Minor amendments

18.—(1) In the Housing Benefit Regulations listed in paragraph (2), after “income support”, there shall be inserted “, state pension credit”.

(10) Paragraph 9 was amended by regulation 13 of S.R. 1989 No. 125, regulation 23(2)(a) of S.R. 1996 No. 334 and regulation 6(b) of S.R. 2001 No. 215

(11) Regulation 23 is modified by regulation 8 of these Regulations

(12) Regulation 23(7) is modified by regulation 8 of these Regulations

(13) Paragraph (1) was amended by regulation 16 of S.R. 1988 No. 424, regulation 11(3)(a) and (b) of S.R. 1992 No. 6 and regulation 18 of S.R. 1996 No. 334

- (2) Those regulations are –
- (a) regulation 4(5)(14) (remunerative work);
 - (b) regulation 93(1)(a)(15) (circumstances in which payment is to be made to a landlord or the Department of Finance and Personnel).

Amendment of the Housing Benefit (Decisions and Appeals) Regulations

19.—(1) The Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(16) shall be amended in accordance with paragraph (2).

- (2) In regulation 8 (date from which a decision superseding an earlier decision takes effect) –
- (a) in paragraph (2), for “in accordance with regulations 68 and 68A of the Housing Benefit Regulations (date on which change of circumstances is to take effect and date of change of circumstances following decision as to whether a person took part in a work-focused interview)” there shall be substituted “in accordance with regulations 68, 68A or 68B of the Housing Benefit Regulations (date on which change of circumstances is to take effect, date of change of circumstances following decision as to whether a person took part in a work-focused interview and change of circumstances where state pension credit payable)”;
 - (b) in paragraph (3)(a), after “68A” there shall be inserted “or 68B”.

Transitional provision

20. A claim for housing benefit made after the day this regulation comes into operation but before 6th October 2004 by a person who has attained or whose partner has attained the qualifying age for state pension credit shall be treated as made –

- (a) on 6th October 2003, or
- (b) on the day that person or, as the case may be, his partner attained the qualifying age for state pension credit,

whichever is the later, if the relevant authority is satisfied that, on that day, the claimant satisfied the conditions of entitlement to housing benefit.

Claims made before 6th October 2003

- 21.**—(1) This regulation applies if –
- (a) a claim is made or treated as made for housing benefit on or after 6th April 2003;
 - (b) the claim is made by a person who has attained, or whose partner has attained, the qualifying age for state pension credit or who will attain or whose partner will attain that age on or before 6th October 2003; and
 - (c) the person making the claim does not satisfy the conditions for entitlement to housing benefit.
- (2) If in the opinion of the relevant authority determining the claim, the conditions for claiming housing benefit will be satisfied on 6th October 2003 unless there is a change in the claimant’s circumstances, the authority may –
- (a) treat the claim as if made for a period beginning on 6th October 2003, and

(14) Paragraph (5) was amended by regulation 3 of S.R. 1996 No. 334

(15) Paragraph (1)(a) was amended by regulation 16 of S.R. 1996 No. 334, regulation 7(g) of S.R. 1996 No. 448 and regulation 11(a) of S.R. 1997 No. 22

(16) S.R. 2001 No. 213; to which there are no relevant amending Regulations

(b) award benefit accordingly, but subject to the condition that the claimant does in fact satisfy those conditions when benefit becomes payable under the award.

(3) A decision under paragraph (2)(b) to award housing benefit may be revised under paragraph 3 of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000⁽¹⁷⁾ if the requirements for entitlement to housing benefit is found not to have been satisfied on 6th October 2003.

Existing claimants

22.—(1) In the case of an existing claimant who, on 6th October 2003, has been a patient for more than 6 weeks but not more than 13 weeks regulation 16(2) of the Housing Benefit Regulations, as inserted by regulation 6(1) of these Regulations, shall have effect as if for the reference to “13 weeks” there were substituted a reference to “6 weeks”.

(2) In this regulation –

(a) “an existing claimant” is a person who –

(i) immediately before 6th October 2003, is entitled to housing benefit, and

(ii) attains or has attained the qualifying age for state pension credit on or before 6th October 2003;

(b) “patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a young offenders centre or training school) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975⁽¹⁸⁾;

(c) for the purposes of calculating the period of 6 weeks referred to in paragraph (1), where a person has been maintained free of charge while undergoing medical or other treatment as an in-patient in a hospital or similar institution within the meaning of that paragraph for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been so maintained for a period equal in duration to the total of those distinct periods.

⁽¹⁷⁾ 2000 c. 4 (N.I.)

⁽¹⁸⁾ S.R. 1975 No. 109