

SCHEDULE 4

Regulation 7

Transitory modifications

Provisions not yet in force

1.—(1) If—

- (a) no date has been appointed as the date on which a provision mentioned in column 1 of the following Table is to come into force before 20th November 2006; or
- (b) a date has been appointed which is later than 20th November 2006,

then the paragraph of this Schedule mentioned in column 2 of the Table opposite that provision shall have effect until the appointed day.

TABLE

<i>Provision</i>	<i>Paragraph of this Schedule</i>
Section 12(2)(f) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 ⁽¹⁾ .	Paragraph 2
Section 12(4) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004.	Paragraph 3

(2) If a date has been appointed as the date on which a provision mentioned in column 1 of the Table above is to come into force for some purposes of that provision but not for others, then the paragraph mentioned in column 2 of the Table opposite that provision shall have effect for those other purposes of that provision (in so far as it is capable of doing so) until the provisions are brought into force for the remaining purposes.

Refugees—Housing Benefit

2.—(1) After regulation 10 of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations insert—

“Entitlement of a refugee to Housing Benefit

10A.—(1) Where a person, who has made a claim for asylum, is notified that he has been recorded by the Secretary of State as a refugee, these Regulations shall have effect with respect to his entitlement to housing benefit for the relevant period which applies in his case in accordance with Schedule A1, but that entitlement is—

- (a) subject to the provisions of Schedule A1; and
- (b) with respect to regulations 13 and 14, subject to paragraph 4(7) of Schedule 3 to the Consequential Provisions Regulations.

(2) Any housing benefit which is payable in consequence of this regulation shall be in the form of a rent allowance.

(3) In this regulation and in Schedule A1, “refugee” means a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees⁽²⁾.”.

(1) 2004 c. 19
 (2) Cmd. 9171

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) Before Schedule 1 to both the Housing Benefit Regulations and, subject to sub-paragraph (3), the Housing Benefit (State Pension Credit) Regulations insert—

“SCHEDULE A1

Treatment of claims for housing benefit by refugees

Claim for housing benefit by a refugee

1.—(1) Where a person (in this Schedule called “the claimant”), who has made a claim for asylum—

- (a) is subsequently notified by the Secretary of State that he has been recorded as a refugee; and
- (b) claims housing benefit—
 - (i) within the period specified in paragraph 2(3), and
 - (ii) in respect of one or more periods from the date of his claim for asylum to the date he is so notified,

his claim for housing benefit shall be treated as having been made on the date specified in sub-paragraph (2).

(2) A claim for housing benefit to which sub-paragraph (1) refers shall be treated as made on the date on which his claim for asylum was recorded by the Secretary of State as having been made.

(3) In this Schedule “the relevant period” means the period or any part of the period, from the date on which the claim for benefit is treated as made in accordance with sub-paragraph (2), to the date the claimant concerned is notified by the Secretary of State that he has been recorded as a refugee, for which housing benefit is claimed in accordance with this paragraph.

Relevant authority to whom a claim for housing benefit by a refugee shall be made and time for making a claim

2.—(1) A claim for housing benefit made by a refugee on or after 3rd April 2000 for the relevant period may be made to the relevant authority for the dwelling which the claimant occupied as his home and in respect of which he was liable to make payments.

(2) Where the claimant has occupied more than one dwelling as his home in the relevant period, only one claim for housing benefit shall be made in respect of that period and such a claim shall be made to the relevant authority for the dwelling occupied by the refugee and in respect of which he was liable to make payments when, after he is notified that he has been recorded by the Secretary of State as a refugee, he makes a claim for housing benefit.

(3) A claim for housing benefit to which this paragraph refers, shall be made within 28 days of a claimant receiving notification from the Secretary of State that he has been recorded as a refugee.

(4) Regulation 81(12) shall not have effect with respect to claims to which this Schedule applies.

Eligible rent or rates

3.—(1) Subject to sub-paragraph (2), for the purpose of determining a claimant’s eligible rent—

- (a) regulations 13 and 14 have effect as they were in operation on 1st April 1996; and
- (b) regulation 15 shall not have effect.

(2) In determining a claimant’s eligible rent or rates for the relevant period, the relevant authority may have regard to information in their possession or which they may obtain, as to the level of rent

or rates which had effect in that period in respect of any dwelling which the claimant occupied as his home and in respect of which his claim for housing benefit is made.

Applicable amounts

4. With respect to a claim for housing benefit under this Schedule, the applicable amounts for the purposes of Part V shall be the aggregate of any personal allowance and premium which would have been applicable in the claimant's case in the relevant period at the rates for each tax year to which the claim relates set by an order made under section 132 of the Administration Act.

Evidence and information

5.—(1) A claimant who makes a claim for housing benefit for the relevant period shall furnish such certificates, documents, information and evidence in connection with the claim, or evidence needed for the determination of the claim or any questions arising in connection with the claim, as may be reasonably required by the relevant authority in order to determine that person's entitlement to that benefit and which are in his possession or which he may reasonably be expected to obtain.

(2) The relevant authority may require information to be provided by—

- (a) the landlord of any dwelling in respect of which a claim for housing benefit arises under this Schedule;
- (b) any other person to whom the rent or rates for the dwelling was paid; and
- (c) any person who made payments of rent or rates to a landlord on behalf of a claimant in the relevant period,

in particular as to the amount of any such rent or rates and any service charges which were included in the rent.

(3) Where the claimant is unable to furnish the necessary evidence to substantiate his claim the relevant authority shall determine the claim on the basis of the evidence that is produced, including any statements made by the claimant himself, any information provided by a landlord under sub-paragraph (2) or by any other person.

Changes of circumstances

6. With respect to claims for housing benefit to which paragraph 1 applies, for paragraph (1) of regulation 84 substitute—

“(1) Upon claiming housing benefit in accordance with Schedule A1 a claimant, or any person by whom or on whose behalf sums payable by way of housing benefit are receivable, shall provide the relevant authority with information concerning any change of circumstances which occurred during the period to which the claim relates which the claimant or that other person might reasonably expect to affect the claimant's right to and the amount of benefit.”.

Calculation of amount of benefit

7. The appropriate maximum housing benefit to which a claimant is entitled under regulation 10A and this Schedule shall be calculated on a weekly basis in accordance with Part VIII as it had effect for the relevant period.

Payments

8.—(1) Subject to sub-paragraph (4), where it is determined that the claimant is entitled to housing benefit in accordance with regulation 10A and this Schedule, payment of the amount due shall be made within 14 days of the date of that determination.

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(2) Regulation 90 shall not have effect with respect to any payment to which a claimant is entitled under regulation 10A.

(3) Regulations 92 and 93 shall not have effect with respect to a payment to which this Schedule applies but where—

- (a) a landlord shows that, for the whole or any part of the relevant period for which housing benefit in the form of a rent allowance or rate rebate has been awarded, no payment of rent or rates has been made;
- (b) information is provided to show the rent or rates that remains due;
- (c) the claimant has been notified that a payment to the landlord or the Department of Finance and Personnel may be made; and
- (d) the relevant authority, having taken account of any representations made by the claimant with respect to such a payment being made, consider that it is reasonable that the benefit or part of the benefit due should be paid to the landlord or the Department of Finance and Personnel,

any benefit to which the claimant is entitled under regulation 10A and this Schedule up to the amount of the eligible rent or rates that is due, may be paid direct to the landlord concerned or the Department of Finance and Personnel in respect of that rent or rates.

(4) Where a claimant was the tenant of the Executive for the whole or part of the relevant period, to the extent that any eligible rent or rates remains due to the Executive in respect of the whole or part of that period, any housing benefit to which the claimant is entitled under regulation 10A and this Schedule shall be reduced by the amount of the eligible rent or rates remaining due to the Executive and any balance of benefit remaining due in respect of that period shall be paid to the claimant.

Offsets

9. Any housing benefit which has otherwise been paid to the claimant or any partner of his, in respect of any part of the relevant period, shall be offset against any award due to the claimant by virtue of regulation 10A and this Schedule, except to the extent that the benefit paid or allowed to that partner was due in respect of a period for which he was not a partner of the claimant.

Matters to be included in the decision notice

10. Parts I to III, V and VI of Schedule 10 shall apply with respect to claims made in accordance with regulation 10A.”.

(3) In its application to the Housing Benefit (State Pension Credit) Regulations, Schedule A1 shall have effect as if—

- (a) in paragraph 2(4) for the reference to “Regulation 81(12)” there were substituted a reference to “Regulation 62(13)”;
- (b) in paragraph 6 for the reference to “regulation 84” there were substituted a reference to “regulation 65”;
- (c) in paragraph 7 for the reference to “Part VIII” there were substituted a reference to “Part VII”;
- (d) in paragraph 8(2) for the reference to “Regulation 90” there were substituted a reference to “Regulation 71”;
- (e) in paragraph 8(3) for the reference to “Regulations 92 and 93 ” there were substituted a reference to “Regulations 73 and 74”;
- (f) in paragraph 10 for the reference to “Schedule 10” there were substituted a reference to “Schedule 9”.

- (4) For paragraph 53 of Schedule 6 to the Housing Benefit Regulations substitute—
- “53. Any council tax benefit, including any amount of council tax benefit to which a person is entitled by virtue of regulation 7A of the Council Tax Benefit Regulations 2006(3).”.
- (5) After paragraph 57 of Schedule 6 to the Housing Benefit Regulations insert—
- “57A. Any amount of housing benefit to which a person is entitled by virtue of regulation 10A.
- 57B. Any amount of income support to which a person is entitled by virtue of regulation 21A of the Income Support Regulations(4) (treatment of refugees).”.
- (6) After paragraph 47 of Schedule 7 to the Housing Benefit Regulations insert—
- “47A. A. Any amount of housing benefit to which a person is entitled by virtue of regulation 10A but only for a period of 52 weeks from the date that such an amount is received pursuant to that regulation.
- 47B. Any amount of income support to which a person is entitled by virtue of regulation 21A of the Income Support Regulations but only for a period of 52 weeks from the date that such an amount is received pursuant to that regulation.”.

Persons from abroad

3.—(1) Sub-paragraphs (2) to (5) apply where, in relation to a claim for income support, a social fund payment or housing benefit, as the case may be, a person has submitted a claim for asylum on or before 2nd April 2000 and is notified that he has been recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967.

(2) Where this paragraph applies, the Housing Benefit Regulations and, subject to paragraph (3), the Housing Benefit (State Pension Credit) Regulations shall have effect as if—

- (a) in Schedule A1 to those Regulations—
- (i) in paragraph 1(1) from “his claim for housing benefit” to the end there were substituted “his claim for housing benefit shall be treated as having been made on whichever of the dates specified in sub-paragraph (2) applies in his case”;
- (ii) for paragraph 1(2) there were substituted—
- “(2) A claim for housing benefit to which sub-paragraph (1) refers shall be treated as made—
- (a) in the case of a claimant who made a claim for asylum upon arrival in the United Kingdom, on the date on which his claim for asylum was first refused by the Secretary of State or 5th February 1996 if that is later; or
- (b) in the case of a claimant whose claim for asylum was made other than on arrival in the United Kingdom, on the date of that claim for asylum or 5th February 1996 if that is later.”;
- (iii) for paragraph 2 there were substituted—

(3) [S.I. 2006/215](#); regulation 7A was inserted by paragraph 3 of Schedule 4 to [S.I. 2006/217](#)

(4) [S.R. 1987 No. 459](#); regulation 21A was substituted by regulation 5(5) of [S.R. 2000 No. 71](#)

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“2.—(1) A claim for housing benefit for the relevant period may be made to the relevant authority for the dwelling which the claimant occupied as his home and in respect of which he was liable to make payments.

(2) Where the claimant occupied more than one dwelling as his home in the appropriate period, only one claim for housing benefit shall be made to the appropriate authority in respect of that period.

(3) A claim for housing benefit, to which this paragraph refers, shall be made—

(a) in the case of a claimant who was notified by the Secretary of State in the period from 24th July 1996 to 15th October 1996 that he had been recorded as a refugee, within 28 days of the later date;

(b) in any other case, within 28 days of a claimant being notified by the Secretary of State that he has been recorded as a refugee.

(4) Regulation 81(12) shall not have effect with respect to claims to which this Schedule applies.”;

(b) in Schedule 6 to the Housing Benefit Regulations for paragraph 57B there were substituted—

“57B. Any amount of income support to which a person is entitled by virtue of regulation 21A of the Income Support Regulations as in operation on 2nd April 2000.”;

(c) in Schedule 7 to the Housing Benefit Regulations for paragraph 47B there were substituted—

“47B. Any amount of income support to which a person is entitled by virtue of regulation 21A of the Income Support Regulations as in operation on 2nd April 2000.”.

(3) In Schedule A1 to the Housing Benefit (State Pension Credit) Regulations in paragraph 2(4), as substituted by sub-paragraph (2) of this paragraph, the reference to “Regulation 81(12)” is a reference to “Regulation 62(13)”.

Amendments having effect for limited period

4.—(1) In regulation 10(5) of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations (persons from abroad)—

(a) omit the word “or” after sub-paragraph (j); and

(b) after sub-paragraph (j) insert—

“(jj) a person in Northern Ireland who left Lebanon on or after 12th July 2006 because of the armed conflict there; or”.

(2) This paragraph shall cease to have effect on 30th January 2007 and the consolidating Regulations shall have effect after that date as if the amendments made by this paragraph had not been made.