

## 2001 No. 1002

### SOCIAL SECURITY

#### The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

*Made* - - - -

*15th March 2001*

*Coming into force* -

*2nd July 2001*

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## DECISIONS AGAINST WHICH NO APPEAL LIES

Whereas a draft of this Instrument was laid before Parliament in accordance with s 80(1)(a) of the Social Security Act 1998(a) and s 68 of, and paragraph 20(4) of Schedule 7 to, the Child Support, Pensions and Social Security Act 2000(b) and approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State for Social Security, in exercise of powers conferred by sections 5(1)(hh) and 6(1)(hh) of the Social Security Administration Act 1992(c), sections 7(6)(a) and 79(4) to (7) of the Social Security Act 1998 and s 68 of, and paragraphs 3(1), (4) and (6), 4(4) and (6), 6(2)(e), (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(1)(d) and (2) of Schedule 7 to, the Child Support, Pensions and Social Security Act 2000 and all other powers enabling him in that behalf, by this Instrument, which contains only regulations made by virtue of, or consequential upon, those provisions of the Child Support, Pensions and Social Security Act 2000 and which are made before the end of the period of six months beginning with the coming into force of those provisions(e), after consultation with the Council on Tribunals in accordance with s 8 of the Tribunals and Inquiries Act 1992(f), and after consultation with organisations appearing to him to be representative of the authorities concerned(g), hereby makes the following Regulations:

## PART I

## GENERAL

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 and shall come into force on 2nd July 2001.

(2) In these Regulations, unless the context otherwise requires—

“the Act” means the Child Support, Pensions and Social Security Act 2000;

▶<sup>1</sup>“the 1998 Act” means the Social Security Act 1998(h); ◀

“the Administration Act” means the Social Security Administration Act 1992;

“appeal” means an appeal to ▶<sup>2</sup>the First-tier 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;

(a) 1998 c. 14.

(b) 2000 c. 19.

(c) 1992 c. 5. Section 5(1)(hh) was inserted by s 74 of the Social Security Act 1998. Section 5(1)(hh) was amended by, and s 6(1)(hh) was inserted by, s 68 of, and para 21 of Sch 7 to, the Child Support, Pensions and Social Security Act 2000.

(d) Section 23(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”.

(e) See sections 170 and 173(5) of the Social Security Administration Act 1992 (c. 5).

(f) 1992 c. 53.

(g) See s 176 of the Social Security Administration Act 1992.

(h) 1998 c. 14.

<sup>1</sup>Defn. of “the 1998 Act” inserted by reg. 5(2)(a) of S.I. 2003/2275 as from 6.10.03.

<sup>2</sup>Words substituted in defn. of “appeal” by art. 149(a) of S.I. 2008/2683 as from 3.11.08.

“claimant” means a person claiming housing benefit or council tax benefit or both;

▶<sup>1</sup>◀

▶<sup>2</sup>“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;◀

▶<sup>3</sup>“Council Tax Benefit Regulations” means the Council Tax Benefit Regulations 2006;

“Council Tax Benefit (State Pension Credit) Regulations” means the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006;◀

▶<sup>4</sup>“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,

and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;◀

“Decisions and Appeals Regulations 1999” means the Social Security and Child Support (Decisions and Appeals) Regulations 1999(a);

▶<sup>5</sup>◀

▶<sup>6</sup>“family” has the meaning as in section 137 of the Social Security Contributions and Benefits Act 1992(b)◀;

▶<sup>1</sup>◀

▶<sup>3</sup>“Housing Benefit Regulations” means the Housing Benefit Regulations 2006; “Housing Benefit (State Pension Credit) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006;◀

▶<sup>1</sup>◀

“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 council tax benefit; or
  - (ii) providing services relating to housing benefit or council tax benefit directly or indirectly to a relevant authority;
- ▶<sup>7</sup>(b) an officer of—
  - (i) the Department for Work and Pensions; or
  - (ii) the Commissioners of Inland Revenue,
 acting as such;◀

▶<sup>5</sup>◀

but excludes any error caused wholly or partly by any person or body not specified in ▶<sup>8</sup>sub-paragraphs (a) or (b)◀ of this definition and any error of law which is shown to have been an error only by virtue of a subsequent decision of ▶<sup>1</sup>the Upper Tribunal◀ or the court;

▶<sup>1</sup>◀

“partner” means—

- (a) where a claimant is a member of ▶<sup>4</sup>a couple◀, the other member of that couple; or

<sup>1</sup>Defns. of “clerk to an appeal tribunal”, “financially qualified panel member”, “legally qualified panel member” & “panel member” omitted & words substituted in defn. of “official error” by arts. 149(b)-(c)(iv) of S.I. 2008/2683 as from 3.11.08.

<sup>2</sup>Defn. of “the Contributions and Benefits Act” inserted by reg. 8(a) of S.I. 2007/2474 as from 1.11.07, but ceases to have effect from 31.10.09.

<sup>3</sup>In reg. 1(2) defns. of “council tax benefit regulations” & “housing benefit regulations” substituted & “council tax benefit (state pension credit) regulations” & “housing benefit (state pension credit) regulations” inserted by para. 17(2) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>4</sup>Defn. of “couple” inserted & words substituted in defn. of “partner” by reg. 9(2)(a) & (b) of S.I. 2005/2878 as from 5.12.05.

<sup>5</sup>Defn. of “designated authority” & para. (c) in defn. of “official error” omitted by para. 8(a)(i) & (ii) of Sch. 2 to S.I. 2002/1703 as from 30.9.02.

<sup>6</sup>Defn. of “family” inserted by reg. 5(2)(b) of S.I. 2003/2275 as from 6.10.03.

<sup>7</sup>Para. (b) substituted in defn. of “official error” by reg. 23(b) of S.I. 2002/1379 as from 20.5.02.

<sup>8</sup>Words substituted in defn. of “official error” by reg. 19 of S.I. 2012/757 as from 1.4.12.

(a) S.I. 1999/992; relevant amending instruments are S.I. 1999/1466 and 2000/1596.

(b) 1992 c. 4.

## Regs. 1-3

<sup>1</sup>Defn. of “the Pilot Scheme Regulations” inserted by reg. 8(a) of S.I. 2007/2474 as from 1.11.07, but ceases to have effect from 31.10.09.

<sup>2</sup>In reg. 1(2), defn. “President” and words in reg. 2(a) & (b) deleted by arts. 149(c)(v) & 150 of S.I. 2008/2683 as from 3.11.08.

<sup>3</sup>Defn. of “the Welfare Reform Act” inserted by reg. 26 of S.I. 2008/2428 as from 27.10.08.

<sup>4</sup>Defns. of “work-focused interview” & “the Work-focused Interviews Regulations” omitted by para. 8(a)(i) of Sch. 2 to S.I. 2002/1703 as from 30.9.02.

(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;  
 ►<sup>1</sup>“the Pilot Scheme Regulations” means the Housing Benefit (Loss of Benefit) (Pilot Scheme) Regulations 2007;◄

►<sup>2</sup>◄

“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;

►<sup>3</sup>“the Welfare Reform Act” means the Welfare Reform Act 2007.◄

►<sup>4</sup>◄

(3) In these Regulations, unless the context otherwise requires, a reference—

(a) to a numbered regulation is to the regulation in these Regulations bearing that number;

(b) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number.

**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 ►<sup>2</sup>◄ the Secretary of State 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 ►<sup>2</sup>◄ the Secretary of State 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 ►<sup>2</sup>◄ the Secretary of State 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.

**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 ►<sup>5</sup>Deputy◄ appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf,

(ii) in Scotland, a tutor, curator, judicial factor or other guardian acting or appointed in terms of law administering that person’s estate, or

(iii) an attorney with a general power or a power to receive benefit appointed by the person liable to make those payments under ►<sup>5</sup>the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise◄;

►<sup>6</sup>(c) a person appointed by the relevant authority under regulation 82(3) of the Housing Benefit Regulations, regulation 63(3) of the Housing Benefit (State Pension Credit) Regulations, regulation 68(3) of the Council Tax Benefit Regulations or, as the case may be, regulation 52(3) of the Council Tax Benefit (State Pension Credit) Regulations (appointments for persons unable to act);

<sup>5</sup>Words in reg. 3(1)(b)(i) & (iii) substituted by reg. 9(2)(a) & (b) of S.I. 2007/2618 as from 1.10.07.

<sup>6</sup>Sub-para. (c) to (e) of reg. 3(1) substituted by para. 17(3) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

- (d) a person from whom the relevant authority determines that—
  - (i) an overpayment is recoverable in accordance with Part 13 of the Housing Benefit Regulations or Part 12 of the Housing Benefit (State Pension Credit) Regulations; or
  - (ii) excess benefit is recoverable in accordance with Part 11 of the Council Tax Benefit Regulations or Part 10 of the Council Tax Benefit (State Pension Credit) Regulations; or
- (e) a landlord or agent acting on behalf of that landlord and that decision is made under—
  - (i) regulation 95 (circumstances in which payment is to be made to the landlord) of the Housing Benefit Regulations;
  - (ii) regulation 96 (circumstances in which payment may be made to the landlord) of those Regulations;
  - (iii) regulation 76 (circumstances in which payment is to be made to the landlord) of the Housing Benefit (State Pension Credit) Regulations;
  - (iv) regulation 77 (circumstances in which payment may be made to the landlord) of those Regulations.◀

(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) ▶<sup>1</sup>subject to regulation 10A(3),◀ 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 ▶<sup>2</sup>by Tribunal Procedure Rules◀, but the appeal has not been determined.

<sup>1</sup>Words inserted in reg. 4(1)(a) by reg. 24 of S.I. 2002/1379 as from 20.5.02.

(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—

- (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.

<sup>2</sup>Words substituted in reg. 4(1)(c) by art. 151(a) of S.I. 2008/2683 as from 3.11.08.

(3) Notwithstanding the provisions in paragraph (1), a relevant decision which adopts a rent officer’s determination▶<sup>3</sup>, board and attendance determination, broad rental market area determination or local housing allowance determination◀ may be revised or further revised by the relevant authority which made the decision at any time in consequence of a rent officer’s redetermination, substitute determination▶<sup>3</sup>substitute redetermination, board and attendance redetermination, substitute board and attendance determination, substitute board and attendance redetermination,

<sup>3</sup>Words inserted & substituted in reg. 4(3) by reg. 16(2) & (3) of S.I. 2003/2399 as from the date specified in Sch. 1 to that S.I. at page 8.3751.

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amended broad rental market area determination or amended local housing allowance determination made under the Rent Officers (Housing Benefit Functions) Order 1997(a) or the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997(b) which resulted in an increase in the amount which represents the rent for the purposes of calculating entitlement to benefit.

(4) 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.

(5) 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.

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

(7) 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 <sup>1</sup>the First-tier Tribunal, Upper Tribunal 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.

<sup>1</sup>Words substituted in reg. 4(7)(a) by art. 151(b) of S.I. 2008/2683 as from 3.11.08.

<sup>2</sup>Reg. 4(7A) substituted by reg. 9(2) of S.I. 2010/1160 as from 1.4.10.

<sup>2</sup>(7A) Where—

- (a) a restriction is imposed on a person under section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions) as a result of the person—
  - (i) being convicted of an offence by a court; or
  - (ii) agreeing to pay a penalty as an alternative to prosecution under section 115A of the Administration Act or section 109A of the Social Security Administration (Northern Ireland) Act 1992, and
- (b) that conviction is quashed or set aside by that or any other court, or the person withdraws his agreement to pay a penalty.

a decision of the relevant authority made in accordance with regulation 7(2)(g) or (h) may be revised at any time. ◀

<sup>3</sup>Paras. (7B) & (7C) inserted in reg. 4 by reg. 5(3) of S.I. 2003/2275 as from 6.10.03.

<sup>3</sup>(7B) Where—

- (a) the relevant authority makes an original decision awarding housing benefit or council tax benefit to a claimant; and
- (b) entitlement to a relevant benefit within the meaning of section 8(3) of the 1998 Act or to an increase in the rate of that relevant benefit is awarded to the claimant or a member of his family for a period which includes the date on which the original decision took effect,

the relevant authority may revise or further revise that original decision at any time.

(7C) Where entitlement to housing benefit or council tax benefit has ceased (“decision A”) because entitlement to a relevant benefit within the meaning of section 8(3) of the 1998 Act has ceased (“decision B”), decision A may be revised at any time if the entitlement to the relevant benefit to which decision B applies has been reinstated in consequence of a decision made under section 9 or 10 of the 1998 Act or an appeal under section 12 of that Act. ◀

(a) S.I. 1997/1984, amended by S.I. 2000/1.

(b) S.I. 1997/1995, amended by S.I. 2000/3.

►<sup>1</sup>(7D) Where—

- (a) a person elects for an increase of—
  - (i) a Category A or Category B retirement pension in accordance with paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act (a) (pension increase or lump sum where entitlement to retirement pension is deferred);
  - (ii) a shared additional pension in accordance with paragraph 1 of Schedule 5A to that Act(b) (pension increase or lump sum where entitlement to shared additional pension is deferred); or, as the case may be,
  - (iii) graduated retirement benefit in accordance with paragraph 12 or 17 of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005(c) (further provisions replacing section 36(4) of the National Insurance Act 1965: increases of graduated retirement benefit and lump sums);
- (b) the relevant authority decides that the person or his partner is entitled to housing benefit or council tax benefit and takes into account the increase of pension or benefit in making or superseding that decision; and
- (c) the person's election for an increase is changed so that he is entitled to a lump sum,

<sup>1</sup>Para. (7D) inserted in reg. 4 by reg. 10(2) of S.I. 2005/2677 as from 6.4.06.

the relevant authority may revise the housing benefit or council tax benefit decision. ◀

►<sup>2</sup>(7DA) Where—

- (a) a person chooses to be paid a state pension under section 9 of the Pensions Act 2014 in accordance with section 8(2) of that Act;
- (b) the relevant authority decides that the person or his partner is entitled to housing benefit and takes into account the state pension under section 9 of that Act in making or superseding that decision; and
- (c) the person alters their choice under section 8(2) of that Act in accordance with Regulations made under section 8(7),

<sup>2</sup>Reg. 4(7DA) & (7DB) inserted by art. 20(2) of S.I. 2015/1985 as from 6.4.16.

the relevant authority may revise the housing benefit decision.

(7DB) Where—

- (a) a person, in accordance with Regulations made under section 10 of the Pensions Act 2014 which include provision corresponding or similar to section 8(2) of that Act, chooses to be paid a survivor's pension based on inheritance of deferred graduated retirement benefit;
- (b) the relevant authority decides that the person or his partner is entitled to housing benefit and takes into account the survivor's pension in sub-paragraph (a) in making or superseding that decision; and
- (c) the person alters their choice to be paid the survivor's pension in sub-paragraph (a) in accordance with Regulations made under section 10 of the Pensions Act 2014 which includes provisions corresponding or similar to Regulations made under section 8(7) of that Act,

the relevant authority may revise the housing benefit decision. ◀

►<sup>3</sup>(7E) Where a court makes an order under section 71 of the Antisocial Behaviour etc. (Scotland) Act 2004(d) and that order is set aside by the sheriff principal following an appeal under section 72(1) of that Act, a decision made in accordance with regulation 7(2)(a) may be revised at any time.

<sup>3</sup>Paras. (7E) & (7F) inserted in reg. 4 by reg. 4 of S.I. 2006/644 as from 3.4.06.

(7F) Where a local authority has served a notice in accordance with section 94 of the Antisocial Behaviour etc. (Scotland) Act 2004 and that notice is set aside by a court following an appeal under section 97(1) of that Act, a decision made in accordance with regulation 7(2)(a) may be revised at any time. ◀

►<sup>4</sup>(7G) Where the court makes a relevant order for possession, as defined in section 130C of the Contributions and Benefits Act (relevant orders for possession) and the order is set aside, a decision in accordance with regulation 7(2)(k) may be revised at any time. ◀

<sup>4</sup>Reg. 4(7G) inserted by reg. 8(b) of S.I. 2007/2474 as from 1.11.07, but ceases to have effect from 31.10.09.

- (a) Paragraphs A1 and 3C are inserted respectively by paragraphs 4 and 9 of Schedule 11 to the Pensions Act 2004 (c. 35).
- (b) Schedule 5A is inserted by paragraph 15 of Schedule 11 to the Pensions Act 2004.
- (c) S.I. 2005/454.
- (d) 2004 asp 8.

**Regs. 4-7**

<sup>1</sup>Reg. 4(7H) inserted by reg. 3(2) of S.I. 2012/2994 as from 15.4.13.

<sup>2</sup>Words in reg. 4(8) omitted by para. 8(b) of Sch. 2 to S.I. 2002/1703 as from 30.9.02.

<sup>3</sup>Words in reg. 4(10) substituted by reg. 3(2) of S.I. 2005/337 as from 18.3.05.

<sup>4</sup>Words in reg. 5(3)(b) inserted by reg. 3(3) of S.I. 2005/337 as from 18.3.05.

<sup>5</sup>Words in reg. 5(3)(c) omitted by para. 8(c) of Sch. 2 to S.I. 2002/1703 as from 30.9.02.

<sup>6</sup>Words substituted in reg. 5(5)(b) by art. 152 of S.I. 2008/2683 as from 3.11.08.

▶<sup>1</sup>(7H) Where a relevant authority has reduced housing benefit as a consequence of regulation 75D of the Housing Benefit Regulations, that decision may be revised at any time.◀

(8) An application for a revision shall be made in writing and delivered, by whatever means, to the relevant authority ▶<sup>2</sup>◀.

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

(10) Paragraph (1) shall not apply in respect of a change of circumstances which occurred since the decision ▶<sup>3</sup>had effect◀ 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 the following paragraphs of this regulation 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.

(3) The application shall—

- (a) contain particulars of the grounds on which the extension of time is sought and shall contain sufficient details of the decision which it is sought to have revised to enable that decision to be identified;
- (b) ▶<sup>4</sup>subject to regulation 4(4),◀ be made within 13 months of the date of notification of the decision which it is sought to have revised; and
- (c) be delivered, by whatever means, to the relevant authority ▶<sup>5</sup>◀.

(4) The application shall not be granted unless the person affected satisfies the relevant authority that—

- (a) it is reasonable to grant the application;
- (b) the application for revision has merit; and
- (c) special circumstances are relevant to the application and as a result of those special circumstances it was not practicable for the application to be made within the time limit specified in regulation 4.

(5) In determining whether it is reasonable to grant the application for an extension of time, no account shall be taken of the following—

- (a) that the person affected was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or
- (b) that ▶<sup>6</sup>the Upper Tribunal◀ or a court has taken a different view of the law from that previously understood and applied.

(6) In determining whether it is reasonable to grant an application, the relevant authority shall have regard to the principle that the greater the amount of time that has elapsed between the expiration of the time specified in regulation 4 for applying for a revision and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

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

**Date from which a revision takes effect**

**6.** Where, on a revision under paragraph 3 of Schedule 7 to the Act, the relevant authority decides that the date from which a relevant decision (“the original decision”) took effect was erroneous, the decision under that paragraph shall take effect on the date the original decision would have taken effect had the error not been made.

**Decisions superseding earlier decisions**

**7.—**(1) Subject to the provisions in this regulation, the prescribed cases and circumstances in which a decision may be made under paragraph 4 of Schedule 7 to the Act (decisions superseding earlier decisions) are as set out in paragraph (2).



(2) The appropriate relevant authority may make a decision under paragraph 4 of Schedule 7 to the Act upon its own initiative or on an application made for the purpose on the basis that the decision to be superseded is a decision—

- (a) in respect of which—
  - (i) there has been a change of circumstances <sup>1</sup>since the decision had effect<sup>4</sup>; or
  - (ii) it is anticipated that a change of circumstances will occur;
- (b) which is erroneous in point of law or made in ignorance of, or was based upon a mistake as to, some material fact provided that the decision—
  - (i) cannot be revised on the basis of that error, ignorance or mistake; and
  - (ii) is not a decision prescribed in regulations under paragraph 6(2)(e) or (4)(a) of Schedule 7 to the Act;
- (c) which adopts a rent officer's determination<sup>2</sup>, board and attendance determination, broad rental market area determination or local housing allowance determination<sup>3</sup> and in consequence of a rent officer's redetermination, substitute determination<sup>3</sup> substitute redetermination, board and attendance redetermination, substitute board and attendance determination, substitute board and attendance redetermination, amended broad rental market area determination or amended local housing allowance determination<sup>4</sup> made under the Rent Officers (Housing Benefit Functions) Order 1997 or the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 the amount which represents the rent for the purposes of calculating entitlement to benefit is reduced;
- <sup>4</sup>(d) <sup>5</sup>an appeal tribunal, the First-tier Tribunal, the Upper Tribunal or of a Commissioner<sup>6</sup>—
  - (i) that was made in ignorance of, or was based upon a mistake as to, some material fact; or
  - (ii) that was made in accordance with paragraph 17(4)(b) of Schedule 7 to the Act, in a case where paragraph 17(5) of that Schedule to the Act applies;<sup>7</sup>
- (e) which is prescribed in regulations made under paragraph 6(2)(e) or (4)(a) of Schedule 7 to the Act;
- (f) <sup>8</sup>
- <sup>7</sup>(g) which is affected by a decision of the Secretary of State that a sanctionable benefit payable to a claimant ceases to be payable or falls to be reduced under section <sup>8</sup>6B, <sup>9</sup>7 or 9 of the Social Security Fraud Act 2001 and for this purpose "sanctionable benefit" has the <sup>8</sup>meaning given in section 6A<sup>10</sup> of that Act; or
- (h) which is affected by a decision of the Secretary of State that a joint-claim jobseeker's allowance ceases to be payable or falls to be reduced under section 8 of the Social Security Fraud Act 2001.<sup>11</sup>
- <sup>9</sup>(i) <sup>10</sup>except where sub-paragraph (o)<sup>11</sup>, (p)<sup>12</sup>, (q) or (s)<sup>13</sup> applies, where—
  - (i) the claimant has been awarded entitlement to housing benefit or council tax benefit; and
  - (ii) subsequent to the first day of the period to which that entitlement relates, the claimant or a member of his family becomes entitled to an award of a relevant benefit within the meaning of section 8(3) of the 1998 Act or an increase in the rate of that relevant benefit.<sup>14</sup>
- <sup>13</sup>(j) where—
  - (i) the claimant or his partner makes, or is treated as having made, an election for a lump sum in accordance with—
    - (aa) paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act;
    - (bb) paragraph 1 of Schedule 5A to that Act; or, as the case may be,
    - (cc) paragraph 12 or 17 of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005;
  - or
  - (ii) such a lump sum is repaid in consequence of an application to change an election for a lump sum in accordance with regulation 5 of the Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions)

<sup>1</sup>Words in reg. 7(2)(a) inserted by reg. 4 of S.I. 2003/1050 as from 5.5.03.

<sup>2</sup>Words in reg. 7(2)(c) inserted by reg. 16(2) of S.I. 2003/2399 as from the date specified in Sch. 1 to that S.I. at page 8.3751.

<sup>3</sup>Words in reg. 7(2)(c) substituted by reg. 16(3) of S.I. 2003/2399 as from the date specified in Sch. 1 to that S.I. at page 8.3751.

<sup>4</sup>Reg. 7(2)(d) substituted by reg. 4 of S.I. 2003/1050 as from 5.5.03.

<sup>5</sup>Words in reg. 7(2)(d) substituted by reg. 5(2) of S.I. 2012/1267 as from 4.6.12.

<sup>6</sup>Reg. 7(2)(f) omitted by para. 8(d) of Sch. 2 to S.I. 2002/1703 as from 30.9.02.

<sup>7</sup>Sub-para. (2)(g) & (h) in reg. 7 inserted by reg. 9(b) of S.I. 2002/490 as from 1.4.02.

<sup>8</sup>Words in reg. 7(2)(g) inserted & substituted by reg. 9(3) of S.I. 2010/1160 as from 1.4.10.

<sup>9</sup>Sub-para. (i) inserted in reg. 7(2) by reg. 5(4) of S.I. 2003/2275 as from 6.10.03.

<sup>10</sup>Words inserted in reg. 7(2)(i) & (o) by reg. 26 of S.I. 2008/2428 as from 27.10.08.

<sup>11</sup>Words inserted in reg. 7(2)(i) by Sch. 5, para. 71(2)(a) of S.I. 2010/1907 as from 1.10.10.

<sup>12</sup>Words in reg. 7(2)(i) substituted by reg. 2(2)(a) of S.I. 2014/213 as from 31.3.14.

<sup>13</sup>Sub-para. (j) inserted in reg. 7 by reg. 10(3) of S.I. 2005/2677 as from 6.4.06.

## Reg. 7

Regulations 2005 (a) or, as the case may be, paragraph 20D of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005(b).◀

<sup>1</sup>Reg. 7(2)(ja) & (jb) inserted by art. 20(3) of S.I. 2015/1985 as from 6.4.16.

▶<sup>1</sup>(ja) where—

- (i) the claimant or his partner chooses to be paid a lump sum under section 8(2) of the Pensions Act 2014, or fails to choose, and is entitled to a lump sum under section 8(4) of that Act; or
- (ii) such a lump sum is repaid in consequence of a decision to alter that choice, being a decision made in accordance with Regulations made under section 8(7) of that Act;

(jb) where—

- (i) the claimant or his partner chooses to be paid a lump sum under Regulations made under section 10 of the Pensions Act 2014 which include provision corresponding or similar to section 8(2) of that Act, or fails to choose, and is entitled to a lump sum under Regulations made under section 10 of that Act which include provision corresponding or similar to section 8(4) of that Act; or
- (ii) such a lump sum is repaid in consequence of a decision to alter that choice, being a decision made in accordance with Regulations made under section 10 of the Pensions Act 2014 which include provision corresponding or similar to Regulations made under section 8(7) of that Act;◀

<sup>2</sup>Sub-paras. (k)-(n) inserted in reg. 7 by reg. 8(c) of S.I. 2007/2474 as from 1.11.07, but ceases to have effect from 31.10.09.

▶<sup>2</sup>(k) that housing benefit is payable to a claimant where that benefit is reduced under regulation 4 of the Pilot Scheme Regulations (reduction of benefit);

- (l) made under sub-paragraph (k) and the claimant is a person in hardship under regulation 5 of the Pilot Scheme Regulations (meaning of “person in hardship”);
- (m) made under sub-paragraph (k) or (l) where section 130B(6) of the Contributions and Benefits Act applies so that the restriction period under that section stops running;
- (n) made under sub-paragraph (m) where section 130B(6) of that Act applies so that the restriction period starts running again.◀

<sup>3</sup>Words inserted in reg. 7(2)(i) & (o) by reg. 26 of S.I. 2008/2428 as from 27.10.08.

▶<sup>3</sup>(o) where—

- (i) the claimant has been awarded entitlement to housing benefit or council tax benefit;
- (ii) the claimant or the claimant’s partner has made a claim for employment and support allowance;
- (iii) subsequent to the first day of the period to which entitlement to housing benefit or council tax benefit relates, the Secretary of State has decided that the claimant or the claimant’s partner has, or is to be treated as having, limited capability for work within the meaning of section 1(4) of the Welfare Reform Act or limited capability for work-related activity within the meaning for section 2(5) of that Act; and

(iv) either—

- (aa) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
- (bb) regulation 7 of the Employment and Support Allowance Regulations 2008(c) (circumstances where the condition that the assessment phase has ended before entitlement to the support component ▶<sup>4</sup>◀ arises does not apply) applies.◀

<sup>4</sup>Words in reg. 7(2)(o)(iv)(bb) omitted by Sch. 1, para. 4 of S.I. 2017/204 as from 3.4.17.

<sup>5</sup>Reg. 7(2)(p) & (q) inserted by Sch. 5, para. 71(2)(b) of S.I. 2010/1907 as from 1.10.10.

▶<sup>5</sup>(p) where—

- (i) the claimant has been awarded entitlement to housing benefit or council tax benefit;
- (ii) the claimant or the claimant’s partner has had an award of benefit converted to an employment and support allowance in accordance with regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010; and
- (iii) subsequent to the first day of the period to which that entitlement to housing benefit or council tax benefit relates, the Secretary of State makes a decision to supersede the award of employment and support allowance to award a different component;

(a) S.I. 2005/2677.

(b) Paragraph 20D is inserted by S.I. 2005/2677.

(c) S.I. 2008/794.

- (q) where the claimant has been awarded entitlement to housing benefit or council tax benefit and subsequent to the first day of the period to which that entitlement relates—
  - (i) a conversion decision of the kind set out in regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect in respect of the claimant or the claimant’s partner; or
  - (ii) <sup>1</sup>the claimant or claimant’s partner is appealing a conversion decision<sup>4</sup> as described in regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.<sup>4</sup>
- ▶<sup>2</sup>(r) which as a consequence of regulation 75D of the Housing Benefit Regulations reduces housing benefit to apply the benefit cap or increases or decreases such a reduction (including a decrease to nil).<sup>4</sup>
- ▶<sup>3</sup>(s) which is affected by the award of personal independence payment under Part 4 of the Welfare Reform Act 2012(a) where—
  - (i) the claimant, the claimant’s partner or a member of the claimant’s family (“P”) was entitled to disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992; and
  - (ii) subsequent to the first day of the period to which the claimant’s entitlement to housing benefit relates, P becomes entitled to personal independence payment as a transfer claimant (within the meaning of regulation 2(1) of the Personal Independence Payment (Transitional Provisions) Regulations 2013(b)).<sup>4</sup>

<sup>1</sup>Words in reg. 7(2)(q)(ii) substituted by reg. 20 of S.I. 2010/2430 as from 4.10.10.

<sup>2</sup>Reg. 7(2)(r) inserted by reg. 3(3) of S.I. 2012/2994 as from 15.4.13.

<sup>3</sup>Reg. 7(2)(s) inserted by reg. 2(2)(b) of S.I. 2014/213 as from 31.3.14.

(2ZA) ▶<sup>4</sup>

[Reg. 7(2A) revoked by reg. 8 of S.I. 2007/2470 as from 24.9.07.]

(2B)–(2C) ▶<sup>4</sup>

(3) The reference to a change of circumstances in paragraph (2)(a) shall include changes of circumstances specified in ▶<sup>5</sup>▶<sup>4</sup> regulation 74(3) of the Council Tax Benefit Regulations or regulation 59(3) of the Council Tax Benefit (State Pension Credit) Regulations (changes of circumstances which do not need to be notified).<sup>4</sup>

(4) A decision which may be revised under regulation 4 may not be superseded under this regulation except where—

- (a) circumstances arise in which the appropriate relevant authority may revise that decision under regulation 4; and
- (b) further circumstances arise in relation to that decision which are not specified in regulation 4 but are specified in paragraph (2) or (5).

(5) Where the appropriate relevant authority requires further evidence or information from the applicant in order to consider all the issues raised by an application under paragraph (2) (“the original application”), the authority shall notify the applicant that further evidence or information is required and, if it does so, the decision may be superseded—

- (a) where the applicant provides further relevant evidence or information within one month of the date of notification or such longer period of time as the appropriate relevant authority may allow; or
- (b) where the applicant does not provide such evidence or information within the time allowed under sub-paragraph (a), on the basis of the original application.

(6) The appropriate relevant authority may treat an application for a revision or a notification of a change of circumstances as an application for a supersession.

(7) An application under this regulation shall be made in writing and delivered, by whatever means, to the relevant authority ▶<sup>6</sup>.

<sup>4</sup>Paras. (2ZA), (2B) & (2C) omitted and words in para. (3) deleted by reg. 4(2) of S.I. 2007/2870 on or after 7.4.08. See reg. 1 to this S.I. for when to apply.

<sup>5</sup>Words substituted in reg. 7(3) by para. 17(3)(b) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>6</sup>Words in reg. 7(7) omitted by para. 8(d) of Sch. 2 to S.I. 2002/1703 as from 30.9.02.

(a) S.I. 2012 c. 5.  
(b) S.I. 2013/387.

**Regs. 7A-8**

<sup>1</sup>Reg. 7A inserted by reg. 4(3) of S.I. 2007/2870 on or after 7.4.08. See reg. 1 to this S.I. for when to apply.

**►<sup>1</sup>Decisions superseding earlier decisions in accordance with paragraph 4(4A) of Schedule 7 to the Act**

**7A.—**(1) The prescribed cases and circumstances in which a decision must be made under paragraph 4 of Schedule 7 to the Act (decisions superseding earlier decisions) are set out in paragraphs (2) to (4).

(2) The appropriate relevant authority must make a decision superseding an earlier decision where it is required to determine a maximum rent (LHA) in accordance with ►<sup>2</sup>regulation 13C(3)◄ of the Housing Benefit Regulations and ►<sup>2</sup>regulation 13C(3)◄ of the Housing Benefit (State Pension Credit) Regulations (when a maximum rent (LHA) is to be determined).

(3) The appropriate relevant authority must make a decision superseding an earlier decision in any case to which regulation 14(1)(f) or (g) or the Housing Benefit Regulations or regulation 14(1)(f) or (g) of the Housing Benefit (State Pension Credit) Regulations (requirement to refer to rent officers) applies.

(4) The appropriate relevant authority must make a decision superseding an earlier decision where a change of circumstances specified in regulation 88(3) of the Housing Benefit Regulations or regulation 69(3) of the Housing Benefit (State Pension Credit) Regulations (changes of circumstances which do not need to be notified) occurs.◄

<sup>2</sup>Words substituted in reg. 7A(2) by reg. 6(2)(a) of S.I. 2008/586 as from 7.4.08.

**Date from which a decision superseding an earlier decision takes effect**

**8.—**(1) A decision made by virtue of paragraph 4 of Schedule 7 to the Act (“the superseding decision”) shall take effect on a date other than the date on which it is made or the date on which the application was made in the cases or circumstances prescribed in paragraphs (2) to (7).

(2) Subject to paragraphs (3) and (6), where the superseding decision is made on the grounds that there has been, or it is anticipated that there will be, a change of circumstances, the superseding decision shall take effect on the date on which the change of circumstances is to take effect ►<sup>3</sup>in accordance with—

- (a) regulation 79 of the Housing Benefit Regulations;
- (b) regulations 59, or 60 of the Housing Benefit (State Pension Credit) Regulations;
- (c) regulation 67 of the Council Tax Benefit Regulations; or
- (d) regulation 50 or 51 of the Council Tax Benefit (State Pension Credit) Regulations

as the case may be.◄

(3) For the purposes of determining the date on which a superseding decision is to take effect in accordance with paragraph (2), in a case where—

- (a) the change of circumstances is a change of circumstances that is required by regulations to be notified, other than any change of circumstances to which regulation 68A of the Housing Benefit Regulations or regulation 59A of the Council Tax Benefit Regulations applies; and
- (b) that change of circumstances is notified more than one month after it occurs, or such longer period as may be allowed under regulation 9; and
- (c) the superseding decision is advantageous to the claimant,

the date of notification of the change of circumstances shall be treated as the date on which the change of circumstances occurred.

(4) Where the superseding decision is advantageous to the claimant and is made on the ground that the superseded decision was made in ignorance of, or was based upon a mistake as to, some material fact, the superseding decision shall take effect from the first day of the benefit week in which—

- (a) except where sub-paragraph (b) applies, the appropriate relevant authority first has information which is sufficient to show that the superseded decision was made in ignorance of, or was based upon a mistake as to, some material fact;
- (b) where the superseding decision was made pursuant to an application, that application was received by the appropriate relevant authority.

(5) For the purpose of paragraphs (3)(c) and (4), the reference to the decision which is advantageous to the claimant includes a decision specified in regulation 17(2).

<sup>3</sup>Words substituted in reg. 8(2) by para. 17(3)(c) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

(6) A superseding decision made in consequence of a rent officer's redetermination, substitute determination ►<sup>1</sup>substitute redetermination, board and attendance redetermination, substitute board and attendance determination, substitute board and attendance redetermination, amended broad rental market area determination or amended local housing allowance determination◄ under the Rent Officers (Housing Benefit Functions) Order 1997 or the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 shall take effect on the date on which a change of circumstances is to take effect in accordance with ►<sup>2</sup>regulation 79 of the Housing Benefit Regulations or, as the case may be, regulation 59 or 60 of the Housing Benefit (State Pension Credit) Regulations◄ as if that determination or redetermination were the relevant change of circumstances.

<sup>1</sup>Words substituted in reg. 8(6) by reg. 16(3) of S.I. 2003/2399 as from the date specified in Sch. 1 to that S.I. at page 8.3751.

<sup>2</sup>Words substituted in reg. 8(6) by reg. 6(2) of S.I. 2010/2449 as from 1.11.10.

►<sup>3</sup>(6A) Except in a case where entitlement to housing benefit ceases, where a rent officer has made a determination in exercise of the Housing Act functions pursuant to an application by a relevant authority under ►<sup>4</sup>regulation 14(1)(f) or (g) of the Housing Benefit Regulations or, as the case may be, regulation 14(1)(f) or (g) of the Housing Benefit (State Pension Credit) Regulations◄ any decision to which ►<sup>5</sup>regulation 7A(3)◄ applies which adopts that determination shall take effect from—

<sup>3</sup>Paras. (6A) & (6B) inserted in reg. 8 by reg. 34(2) of S.I. 2004/14 as from 5.4.04.

<sup>4</sup>Words substituted in para. (6A), (a)(i) & (ii) of reg. 8 by para. 17(3)(c)(ii) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>5</sup>Words in para. (6A) substituted by reg. 4(4)(a) of S.I. 2007/2870 on or after 7.4.08. See reg. 1 to this S.I. for when to apply.

- (a) in a case where the amount of the rent officer's determination has increased or remains unchanged, and—
  - (i) rent is payable weekly or in multiples of weeks, the first day of the benefit week in which the day following the last day of the period mentioned in ►<sup>4</sup>regulation 14(1)(f) or (g) of the Housing Benefit Regulations or, as the case may be, regulation 14(1)(f) or (g) of the Housing Benefit (State Pension Credit) Regulations◄ occurs;
  - (ii) rent is payable other than in accordance with head (i), the first day following the last day of the period mentioned in ►<sup>4</sup>regulation 14(1)(f) or (g) of the Housing Benefit Regulations or, as the case may be, regulation 14(1)(f) or (g) of the Housing Benefit (State Pension Credit) Regulations◄
- (b) in a case where the amount of the rent officer's determination has decreased, the first day of the benefit week following the date on which that determination was received by a relevant authority;

(6B) For the purposes of paragraph (6A) "Housing Act functions" has the same meaning as in regulation 2(1) of the Housing Benefit Regulations ►<sup>6</sup>or, as the case may be, regulation 2(1) of the Housing Benefit (State Pension Credit) Regulations◄

<sup>6</sup>Words substituted in para. (6B) of reg. 8 by para. 17(3)(c)(iii) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

(7) Where a decision is made superseding a decision of ►<sup>7</sup>an appeal tribunal, the First-tier Tribunal, the Upper Tribunal or of a Commissioner◄ ("the appeal decision") which—

<sup>7</sup>Words substituted in reg. 8(7) by reg. 5(3) of S.I. 2012/1267 as from 4.6.12.

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

that superseding decision shall take effect on the date on which the appeal decision took or was to take effect.

(8) A superseding decision made as a consequence of a determination which is a relevant determination for the purposes of paragraph 18 of Schedule 7 to the Act (restrictions on entitlement to benefit in certain cases of error) shall take effect from the date of the relevant determination.

►<sup>8</sup>(9) A decision to which regulation 7(2)(g) or (h) applies shall take effect from the first day of the disqualification period prescribed for the purposes of section ►<sup>9</sup>6B or◄ 7 of the Social Security Fraud Act 2001.◄

<sup>8</sup>Reg. 8(9) inserted by reg. 9(c) by S.I. 2002/490 as from 1.4.02.

<sup>9</sup>Words inserted in reg. 8(9) by reg. 9(4) of S.I. 2010/1160 as from 1.4.10.

►<sup>10</sup>(10) Where the decision is superseded in accordance with regulation 7(2)(a)(i) and the relevant circumstances are that there has been a change in the legislation in relation to housing benefit or council tax benefit, the superseding decision shall take effect from the date on which that change in the legislation had effect.

<sup>10</sup>Paras. (10)-(11) added to reg. 8 by S.I. 2003/1050 as from 5.5.03.

(11) Where the superseding decision is made in a case to which regulation 7(2)(d)(ii) applies the superseding decision shall take effect from the date on which the ►<sup>11</sup>decision of the appeal tribunal, the First-tier Tribunal, the Upper Tribunal or the Commissioner◄ would have taken effect had it been decided in accordance with the determination of the ►<sup>12</sup>Upper Tribunal►<sup>11</sup>, the Commissioner◄◄ or the court in the appeal referred to in paragraph 17(1)(b) of Schedule 7 to the Act.◄

<sup>11</sup>Words substituted in reg. 8(11) by reg. 5(3) of S.I. 2012/1267 as from 4.6.12.

<sup>12</sup>Words substituted in reg. 8(11) by art. 154(a) & (b) of S.I. 2008/2683 as from 3.11.08.

[Reg. 8(12) & (13) revoked by reg. 8 of S.I. 2007/2470 as from 24.9.07.]

<sup>1</sup>Para. (14) inserted in reg. 8 by reg. 5(5) of S.I. 2003/2275 as from 6.10.03.

<sup>2</sup>Words inserted in reg. 8(14) by reg. 3(a) of S.I. 2008/1082 as from 27.10.08.

<sup>3</sup>Para. (14A) inserted in reg. 8 by reg. 10(4) of S.I. 2005/2677 as from 6.4.06.

<sup>4</sup>Words in reg. 8(14A) inserted by art. 20(4) of S.I. 2015/1985 as from 6.4.16.

<sup>5</sup>Paras. (14B) & (14C) inserted in reg. 8 by reg. 8(d) of S.I. 2007/2474 as from 1.11.07, but ceases to have effect from 31.10.09.

<sup>6</sup>Reg. 8(14D) inserted by reg. 26 of S.I. 2008/2428 as from 27.10.08.

<sup>7</sup>In reg. 8, words inserted in para. (14D) by Sch. 5, para. 71(3) of S.I. 2010/1907 as from 1.10.10.

<sup>8</sup>Reg. 8(14E) added by Sch. 5, para. 71(3) of S.I. 2010/1907 as from 1.10.10.

<sup>9</sup>Reg. 8(14F) inserted by reg. 3(4) of S.I. 2012/2994 as from 15.4.13.

<sup>10</sup>Reg. 8(14G) inserted by reg. 2(3) of S.I. 2014/213 as from 31.3.14.

►<sup>1</sup>(14) ►<sup>2</sup>Subject to paragraph (17), ◀ where the decision is superseded in accordance with regulation 7(2)(i) the superseding decision shall take effect from the date on which entitlement arises to the relevant benefit referred to in regulation 7(2)(i)(ii) or to an increase in the rate of that relevant benefit. ◀

►<sup>3</sup>(14A) Where a decision is superseded in accordance with regulation 7(2)(j), ►<sup>4</sup>(ja) or (jb), ◀ the superseding decision shall take effect from the day on which a lump sum, or a payment on account of a lump sum, is paid or repaid if that day is the first day of the benefit week but, if it is not, from the next following such day. ◀

►<sup>5</sup>(14B) A decision to which regulation 7(2)(k) applies shall take effect in accordance with regulation 4 of the Pilot Scheme Regulations;

(14C) A decision to which regulation 7(2)(l) applies shall take effect on the day the claimant first represented himself to be a person in hardship in accordance with regulation 5 of the Pilot Scheme Regulations. ◀

►<sup>6</sup>(14D) Where the decision is superseded in accordance with regulation 7(2)(o), ►<sup>7</sup>or (p) ◀ the decision shall take effect from—

- (a) the first day of entitlement to an amount in consequence of the decision of the Secretary of State referred to in regulation 7(2)(o)(iii) ►<sup>6</sup>or (p)(iii) ◀; or
- (b) the first day that there would have been such entitlement had the claimant or the claimant's partner been entitled to an employment and support allowance by virtue of section 1 of the Welfare Reform Act,

if that day is the first day of the benefit week but, if it is not, from the next following such day. ◀

►<sup>8</sup>(14E) Where a decision is superseded in accordance with regulation 7(2)(q) the decision shall take effect—

- (a) where the decision made in accordance with the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect on or after 1st April in any year but before 16th April of that year—
  - (i) from 1st April for a council tax benefit award;
  - (ii) from 1st April for a housing benefit award in the claimant's weekly amount of eligible rent falls to be calculated in accordance with regulation 80(2)(b) or (c) of the Housing Benefit Regulations or, as the case may be, regulation 61(2)(b) or (c) of the Housing Benefit (State Pension Credit) Regulations;
  - (iii) from the first Monday in April for a housing benefit award to which subparagraph (a)(ii) does not apply;
- (b) in any other case, from the day the decision made in accordance with the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulation 2010 takes effect. ◀

►<sup>9</sup>(14F) Where a decision is superseded in accordance with regulation 7(2)(r), the superseding decision shall take effect—

- (a) on the date the superseding decision is made where the decision results in the application of the benefit cap or an increase in a reduction; and
- (b) where the decision results in the benefit cap ceasing to apply or a decrease in a reduction, on the date from which the welfare benefit (within the meaning of regulation 75G of the Housing Benefit Regulations) is reduced. ◀

►<sup>10</sup>(14G) A superseding decision made in consequence of regulation 7(2)(s) shall take effect—

- (a) on 1st April in a case where—
  - (i) the claimant's weekly amount of eligible rent falls to be calculated in accordance with regulation 80(2)(b) or (c) of the Housing Benefit Regulations or, as the case may be, regulation 61(2)(b) or (c) of the Housing Benefit (State Pension Credit) Regulations; and
  - (ii) the decision to award personal independence payment takes effect in the same benefit week as the 1st April;

- (b) on the first Monday in April in a case where—
  - (i) the claimant's weekly amount of eligible rent falls to be calculated in accordance with regulation 80(2)(a) of the Housing Benefit Regulations or, as the case may be, regulation 61(2)(a) of the Housing Benefit (State Pension Credit) Regulations; and
  - (ii) the decision to award personal independence payment takes effect in the same benefit week as the first Monday in April;
- (c) in any other case, on the day after the last day of entitlement to disability living allowance.◀

▶<sup>1</sup>(15) A decision to which regulation 7A(2) applies shall take effect—

- (a) from 1st April in a case where the claimant's weekly amount of eligible rent falls to be calculated in accordance with regulation 80(2)(b) or (c) of the Housing Benefit Regulations or, as the case may be, regulation 61(2)(b) or (c) of the Housing Benefit (State Pension Credit) Regulations; and
- (b) in any other case, from the first Monday in April.◀

<sup>1</sup>Reg. 8(15) substituted by reg. 2(2)(b) of S.I. 2012/3040 as from 1.1.13.

▶<sup>2</sup>(16) Where the decision is superseded in accordance with regulation 7(2)(a)(i) and the relevant circumstances are that the claimant has a non-dependant who has become entitled to main phase employment and support allowance, the superseding decision shall take effect from the date of the decision awarding main phase employment and support allowance to the non-dependant.

<sup>2</sup>Reg. 8(16)-(18) added by reg. 3(b) of S.I. 2008/1082 as from 27.10.08.

(17) Where the decision is superseded under regulation 7(2)(i) on the basis that the claimant or the claimant's partner is entitled to main phase employment and support allowance, the decision shall take effect from the day on which entitlement arose if it is the first day of a benefit week or, if it is not, from the first day of the next following benefit week.

(18) For the purposes of paragraphs (16) and (17)—

- (a) "main phase employment and support allowance" means an employment and support allowance where the calculation of the amount payable in respect of the claimant includes a component under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007; and
- (b) "non-dependant" has the meaning prescribed in regulation 3(a) of the Housing Benefit Regulations.◀

#### Effective date for late notification of change of circumstances

9.—(1) For the purposes of making a decision under paragraph 4 of Schedule 7 to the Act a longer period of time may be allowed for the notification of a change of circumstances in so far as it affects the effective date of the change where the conditions specified in the following provisions of this regulation are satisfied.

(2) An application for the purposes of paragraph (1) shall—

- (a) include particulars of the change of circumstances and the reasons for the failure to notify the change of circumstances on an earlier date; and
- (b) be made within 13 months of the date on which the change occurred.

(3) An application for the purposes of paragraph (1) shall not be granted unless the appropriate relevant authority is satisfied that—

- (a) it is reasonable to grant the application;
- (b) the change of circumstances notified by the applicant is relevant to the decision which is to be superseded; and
- (c) special circumstances are relevant and as a result of those special circumstances it was not practicable for the applicant to notify the change of circumstances within one month of the change occurring.

(4) In determining whether it is reasonable to grant the application, the appropriate relevant authority shall have regard to the principle that the greater the amount of time that has elapsed between the date one month after the change of circumstances occurred and the date the application for a superseding decision is made, the more compelling should be the special circumstances on which the application is based.

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(a) Regulation 3 was amended by S.I. 2007/2868.

(5) In determining whether it is reasonable to grant an application, no account shall be taken of the following—

- (a) that the applicant was unaware of, or misunderstood, the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or
  - (b) that <sup>1</sup>the Upper Tribunal<sup>2</sup> or a court has taken a different view of the law from that previously understood and applied.
- (6) An application under this regulation which has been refused may not be renewed.

<sup>1</sup>Words substituted in reg. 9(5)(b) & deleted in reg. 10A(3) by Sch. 1, paras. 155 & 156 of S.I. 2008/2683 as from 3.11.08.

#### Notice of a decision against which an appeal lies

**10.**—(1) A person affected who has a right of appeal against a relevant decision shall be given written notice—

- (a) of the decision against which the appeal lies;
- (b) in a case where that notice does not include a statement of reasons for the decision, that he may<sup>2</sup>, within one month of the date of notification of that decision (or, if the decision was notified before 1st November 2010, before 1st December 2010),<sup>3</sup> request the relevant authority to provide him with a written statement of the reasons for that decision; and
- (c) of his right of appeal against that decision.

<sup>2</sup>Words inserted in reg. 10(1) by reg. 6(3) of S.I. 2010/2449 as from 1.11.10.

(2) Where a written statement of the reasons for the decision is not included in the written notice of the decision and is requested under paragraph (1)(b), the relevant authority shall, so far as practicable, provide that statement within 14 days.

<sup>3</sup>Reg. 10A inserted by reg. 25 of S.I. 2002/1379 as from 20.5.02.

#### <sup>3</sup>Correction of accidental errors

**10A.**—(1) Accidental errors in a relevant decision, or a revised decision, or the record of such a decision, may be corrected by the relevant authority at any time.

(2) A correction made to a relevant decision, or a revised decision, or the record of such a decision, shall be deemed to be part of the decision, or of that record, and the relevant authority shall give a written notice of the correction as soon as practicable to the claimant.

(3) In calculating the time within which an application can be made under regulation 4(1)(a) for a relevant decision to be revised, <sup>1</sup>there shall be disregarded any day falling before the day on which notice was given of a correction of the decision or to the revision or record thereof under paragraph (2).<sup>2</sup>

## PART III

### SUSPENSION AND TERMINATION OF BENEFIT AND OTHER MATTERS

#### Cases where a relevant authority may suspend

**11.**—(1) A relevant authority may suspend, in whole or in part—

- (a) any payment of housing benefit or council tax benefit;
- (b) any reduction (by way of council tax benefit) in the amount that a person is or will become liable to pay in respect of council tax,

in the circumstances prescribed in paragraph (2).

(2) The prescribed circumstances are where—

- (a) it appears to the relevant authority that an issue arises whether—
  - (i) the conditions for entitlement to housing benefit or council tax benefit are or were fulfilled; or
  - (ii) a decision as to an award of such a benefit should be revised under paragraph 3 of Schedule 7 to the Act or superseded under paragraph 4 of that Schedule;



- (b) an appeal is pending against—
  - (i) a decision of ►<sup>1</sup>the First-tier Tribunal, the Upper Tribunal◄ or a court; or
  - (ii) a decision given by ►<sup>1</sup>the Upper Tribunal◄ or a court in a different case, and it appears to the relevant authority that if the appeal were to be determined in a particular way an issue would arise whether the award of housing benefit or council tax benefit in the case itself ought to be revised or superseded; or
- (c) an issue arises whether—
  - (i) an amount of housing benefit is recoverable under section 75 (overpayments) of the Administration Act or regulation made under that section; or
  - (ii) an excess payment of council tax benefit under section 76 of the Administration Act or regulation made under that section has occurred.

<sup>1</sup>Words substituted in reg. 11(2)(b)(i) & (ii) by Sch. 1, para. 157(a) & (b) of S.I. 2008/2683 as from 3.11.08.

►<sup>2</sup>(3) For the purposes of paragraph 13(3)(c) of Schedule 7 to the Act the prescribed circumstances are that a decision of an appeal tribunal, a Commissioner or a court has been made and the relevant authority—

<sup>2</sup>Reg. 11(3) inserted by reg. 4(2) of S.I. 2008/2667 as from 30.10.08.

- (a) is waiting to receive that decision, or in the case of an appeal tribunal decision, is considering whether to apply for a statement of reasons for it, or has applied for such a statement and is waiting to receive it; or
- (b) has received that decision or, in the case of an appeal tribunal decision, the statement of reasons for it, and is considering whether to apply for leave to appeal, or where leave to appeal has been granted, is considering whether to appeal,

and the relevant authority shall as soon as reasonably practicable give written notice of its intention to apply for a statement of the reasons for a tribunal decision, to apply for leave to appeal, or to appeal.◄

#### **Making or restoring of payments or reductions suspended**

**12.—**(1) Subject to paragraph (2), the prescribed circumstances for the purposes of paragraph 13(1)(c) of Schedule 7 to the Act (the subsequent making, or restoring, of any or all of the payments or reductions so suspended) are—

- (a) in a case to which regulation 11(2)(a) applies, where the relevant authority is satisfied that the benefit so suspended is properly payable and no outstanding issues remain to be resolved;
- (b) in a case to which regulation 11(2)(b) applies, an appeal is no longer pending and the benefit suspended remains payable following the determination of that appeal.

(2) Where any of the circumstances in paragraph (1) is satisfied, the relevant authority shall, so far as practicable, make the payment, or as the case may be, restore the reduction within 14 days of the decision to make or restore that payment or reduction.

#### **Suspension for failure to furnish information etc.**

**13.—**(1) The relevant authority may suspend in whole or in part—

- (a) any payment of housing benefit or council tax benefit;
- (b) any reduction (by way of council tax benefit) in the amount that a person is or will become liable to pay in respect of council tax,

in relation to persons who fail to comply with the information requirements (as defined in paragraph 14 of Schedule 7 to the Act) as provided for in regulations made pursuant to section 5(1)(hh) and 6(1)(hh) of the Administration Act (person required to satisfy the information provisions).

(2) For the purposes of section 5(1)(hh) in so far as it applies to housing benefit and section 6(1)(hh) of the Administration Act the prescribed persons are—

- (a) a person in respect of whom payment of benefit or a reduction has been suspended under regulation 11(2)(a);

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<sup>1</sup>Words substituted in reg. 13(2)(c) by para. 17(3)(d) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

- (b) a person who has made an application for a decision of the relevant authority to be revised or superseded;
- (c) a person in respect of whom a question has arisen in connection with his award of benefit and who fails to comply with the requirement in <sup>1</sup>regulation 86 of the Housing Benefit Regulations, regulation 67 of the Housing Benefit (State Pension Credit) Regulations, regulation 72 of the Council Tax Benefit Regulations or regulation 57 of the Council Tax Benefit (State Pension Credit) Regulations to furnish information or evidence needed for a determination whether a decision on an award should be revised under paragraph 3 or superseded under paragraph 4 of Schedule 7 to the Act.

(3) The relevant authority shall notify any person to whom paragraph (2) refers of the requirements of this regulation.

(4) A person to whom paragraph (2) refers must—

- (a) furnish the information or evidence needed within a period of—
  - (i) one month beginning with the date on which the notification under paragraph (3) was sent to him; or
  - (ii) such longer period as the relevant authority considers necessary in order to enable him to comply with the requirement; or
- (b) satisfy the relevant authority within the period provided for in paragraph (4)(a) that—
  - (i) the information or evidence so required does not exist; or
  - (ii) it is not possible for him to obtain the information or evidence so required.

(5) Where a person satisfies the requirements in paragraph (4), the relevant authority shall, so far as practicable, make, or as the case may be restore, the payment within 14 days of the decision to make or restore that payment.

**Termination in cases of a failure to furnish information**

**14.**—(1) A person in respect of whom payment of benefit or a reduction has been suspended—

- (a) under regulation 11 and who subsequently fails to comply with an information requirement; or
- (b) under regulation 13 for failing to comply with such a requirement,

shall cease to be entitled to the benefit from the date on which the payments or reduction were so suspended, or such earlier date on which entitlement to benefit ceases.

(2) Paragraph (1) does not apply—

- <sup>2</sup>(a) subject to sub-paragraph (b), before the end of the period under regulation 13(4) for the provision of information; and
- (b) where payment of benefit or a reduction has been suspended in part under regulation 11 or regulation 13.

<sup>2</sup>Sub-para (2)(a) of reg. 14 substituted by reg. 4 of S.I. 2005/2894 as from 10.11.05.

**Decisions involving issues that arise on appeal in other cases**

**15.**—(1) For the purposes of paragraph 16(3)(b) of Schedule 7 to the Act (prescribed cases and circumstances in which a decision may be made) the prescribed cases and circumstances are those in which the claimant would be entitled to benefit to which the decision which falls to be made relates, even if the appeal in the other case referred to in paragraph 16(1)(b) of that Schedule were decided in the way which is most unfavourable to him.

(2) For the purposes of paragraph 16(3)(b) of Schedule 7 to the Act (prescribed basis) the prescribed basis on which the relevant authority may make a decision is as if—

- (a) the appeal in the other case referred to in paragraph 16(1)(b) of that Schedule 7 had already been determined; and
- (b) the appeal had been decided in the way which is most unfavourable to the claimant.

## PART IV

### RIGHTS OF APPEAL AND PROCEDURE FOR BRINGING APPEALS

#### Decisions against which no appeal lies

16.—(1) No appeal shall lie against a decision specified in the Schedule to these Regulations.

(2) ►<sup>1</sup>◄

(3) In this regulation references to a decision include references to a determination embodied in or necessary to a decision.

<sup>1</sup>Regs. 16(2), 18 & paras. (1)-(4) of reg. 19 omitted & reg. 19(5)-(5A) & words in reg. 17(5) substituted by arts. 158-161(a)-(b) of S.I. 2008/2683 as from 3.11.08.

#### Appeal against a decision which has been revised

17.—(1) An appeal against a decision of the relevant authority shall not lapse where the decision is revised under paragraph 3 of Schedule 7 to the Act before the appeal is determined and the decision as revised is not more advantageous to the appellant than the decision before it was so revised.

(2) For the purposes of this regulation, a decision which is more advantageous includes any decision where—

- (a) any housing benefit or council tax benefit paid or any reduction in the amount that a person is liable to pay in respect of council tax is greater or is awarded for a longer period in consequence of a decision made under paragraph 3 of Schedule 7 to the Act;
- (b) the amount of housing benefit or council tax benefit in payment or reduction in the amount a person is liable to pay in respect of council tax would have been greater but for the operation of the Administration Act in suspending the payment of, or disqualifying a claimant from receiving, some or all of the benefit;
- (c) as a result of the decision, a denial of, or disqualification for the receiving of, housing benefit or council tax benefit is lifted, wholly or in part; or
- (d) in consequence of the revised decision, housing benefit or council tax benefit paid is not recoverable by virtue of or as a consequence of section 75 or 76 of the Administration Act, or an amount so recoverable is reduced.

(3) Where a decision as revised under paragraph 3 of Schedule 7 to the Act is not more advantageous to the appellant than the decision before it was revised, the appeal shall be treated as though it had been brought against the decision as revised.

(4) The appellant shall have a period of one month from the date of notification of the decision as revised to make further representations as to the appeal.

(5) After the expiration of the period specified in paragraph (4), or within that period if the appellant consents in writing, the appeal to the ►<sup>1</sup>First-tier Tribunal◄ shall proceed except where, in the light of further representations from the appellant, the relevant authority further revises its decision and that decision is more advantageous to the appellant than the decision before it was revised.

18. ►<sup>1</sup>◄

#### Late appeals

19. (1)-(4) ►<sup>1</sup>◄

►<sup>1</sup>(5) Where a dispute arises as to whether an appeal was brought within the time specified under Tribunal Procedure Rules the dispute shall be referred to, and determined by, the First-tier Tribunal.

(5A) The relevant authority may treat a late appeal as made in time in accordance with Tribunal Procedure Rules if the relevant authority is satisfied that it is in the interests of justice.◄

## Regs. 19-20

<sup>1</sup>Words in reg. 19(6)-(7)(a) & (b), (8)-(9) & 20(3)-(4) and the heading to, & paras. (1)-(2) of reg. 20 substituted & reg. 19(10)-(12) & words in 19(6)(a)-(b) & 20(3)-(5) omitted by arts. 161(c)-(g) & 162(1)-(7) of S.I. 2008/2683 as from 3.11.08.

(6) For the purposes of paragraph ►<sup>1</sup>(5)◄, it is not in the interests of justice to ►<sup>1</sup>treat the appeal as made in time unless the relevant authority◄,◄ is satisfied that—

- (a) any of the special circumstances specified in paragraph (7) are relevant ►<sup>1</sup>◄; or
- (b) some other special circumstances exist which are wholly exceptional and relevant ►<sup>1</sup>◄,

and as a result of those special circumstances, it was not practicable for the ►<sup>1</sup>appeal notice to be submitted in accordance with Tribunal Procedure Rules.◄

(7) For the purposes of paragraph (6)(a), the special circumstances are—

- (a) the ►<sup>1</sup>appellant◄ or a partner or dependant of the ►<sup>1</sup>appellant◄ has died or suffered serious illness;
- (b) the ►<sup>1</sup>appellant◄ is not resident in the United Kingdom; or
- (c) normal postal services were disrupted.

(8) In determining whether it is in the interests of justice to ►<sup>1</sup>treat the appeal as made in time◄, ►<sup>2</sup>regard shall be had◄ to the principle that the greater the amount of time that has elapsed between the expiration of the time ►<sup>1</sup>limit under Tribunal Procedure Rules and the submission of the notice of appeal, the more compelling should be the special circumstances.◄

(9) In determining whether it is in the interests of justice to ►<sup>1</sup>treat the appeal as made in time◄, no account shall be taken of the following—

- (a) that the applicant was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by ►<sup>1</sup>Tribunal Procedure rules◄); or
- (b) that ►<sup>1</sup>the Upper Tribunal◄ or a court has taken a different view of the law from that previously understood and applied.

(10)-(12) ►<sup>1</sup>◄

### ►<sup>1</sup>Notice of Appeal◄

20.—►<sup>1</sup>(1) A notice of appeal made in accordance with Tribunal Procedure Rules must be made on a form approved by the relevant authority, or in such other format as the relevant authority may accept, and sent or delivered to the relevant authority.◄

►<sup>1</sup>(2) Except where paragraph (3) applies, where a form does not contain the information required under Tribunal Procedure Rules the form may be returned by the relevant authority to the sender for completion in accordance with the Tribunal Procedure rules.◄

(3) Where the relevant authority is satisfied that the form, although not completed in accordance with the instructions on it, includes sufficient information to enable the appeal ►<sup>1</sup>◄ to proceed, it may treat the form as satisfying the requirements of ►<sup>1</sup>Tribunal Procedure Rules◄.

(4) Where ►<sup>1</sup>a notice of appeal◄ is made in writing otherwise than on the approved form (“the letter”), and the letter includes sufficient information to enable the appeal ►<sup>1</sup>◄ to proceed, the relevant authority may treat the letter as satisfying the requirements of ►<sup>1</sup>Tribunal Procedure Rules◄.

(5) Where the letter does not include sufficient information to enable the appeal ►<sup>1</sup>◄ to proceed, the relevant authority may request, in writing, further particulars.

(6) Where a person to whom a form is returned or from whom further particulars are requested duly completes and returns the form or sends the further particulars and the form or particulars, as the case may be, are received by the relevant authority within—

- (a) 14 days of the date on which the form was returned to him, the time for making the appeal shall be extended by 14 days from the date on which the form was returned;

<sup>2</sup>Words substituted in reg. 19(8) by reg. 27(d) of S.I. 2002/1379 as from 20.5.02.

- (b) 14 days of the date on which the relevant authority's request was made, the time for making the appeal shall be extended by 14 days from the date of the request;
- (c) such longer period as the relevant authority may direct, the time for making the appeal shall be extended by a period equal to that longer period directed by the relevant authority.

(7) Where a person to whom a form is returned or from whom further particulars are requested does not complete and return the form or send further particulars within the period of time specified in paragraph (6)–

- (a) the relevant authority shall forward a copy of the form, or as the case may be, the letter, together with any other relevant documents or evidence to ►<sup>1</sup>the First-tier Tribunal◄; and
- (b) the ►<sup>1</sup>First-tier Tribunal◄ shall determine whether the form or the letter satisfies the requirements of ►<sup>1</sup>Tribunal Procedure Rules◄, and shall inform the relevant authority and appellant or applicant of his determination.

<sup>1</sup>Words substituted in reg. 20(7)(a) & (b), (8) & (9) by arts. 162(8)-(10) of S.I. 2008/2683 as from 3.11.08.

(8) Where–

- (a) a form is duly completed and returned or further particulars are sent after the expiry of the period of time allowed in accordance with paragraph (6); and
- (b) no decision has been made under paragraph (7) at the time the form or the further particulars are received by the relevant authority,

the form or further particulars shall also be forwarded to the ►<sup>1</sup>First-tier Tribunal which◄ who shall take into account any further information or evidence set out in the form or further particulars.

(9) The relevant authority may discontinue action on an appeal where ►<sup>1</sup>the notice of appeal◄ the appeal has not been forwarded to the ►<sup>1</sup>First-tier Tribunal◄ and the appellant or an authorised representative of the appellant has given written notice that the appellant does not wish the appeal to continue.

#### Death of a party to an appeal

21.—(1) In any proceedings, on the death of a party to those proceedings, the relevant authority may appoint such person as it thinks fit to proceed with the appeal in the place of the deceased.

(2) A grant of probate, confirmation or letters of administration in respect of the deceased, whenever taken out, shall have no effect on an appointment made under paragraph (1).

(3) Where a person appointed under paragraph (1) has, prior to the date of such appointment, taken any action in relation to the appeal on behalf of the deceased, the effective date of appointment shall be treated as the day immediately prior to the first day on which such action was taken.

►<sup>2</sup>(4) For the purposes of this regulation only, “appeal” means an appeal to an appeal tribunal, a Commissioner or a court.◄

<sup>2</sup>Reg. 21(4) inserted by reg. 4(3) of S.I. 2008/2667 as from 30.10.08.

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**PART V**  
**APPEAL TRIBUNALS**

<sup>1</sup>Regs. 22-23 omitted by art. 163 of S.I. 2008/2683 as from 3.11.08.

**22.-23. ►<sup>1</sup>◄**

Signed by authority of the Secretary of State for Social Security.

15th March 2001

*Angela Eagle*  
Parliamentary Under-Secretary of State,  
Department of Social Security

SCHEDULE

Regulation 16(1)

DECISIONS AGAINST WHICH NO APPEAL LIES

1. No appeal shall lie against a decision made by virtue of, or as a consequence of, any of the provisions in Part X (claims), Part XII (payments) and Part XIII (overpayments) of the Housing Benefit Regulations except a decision under—

- ▶<sup>1</sup>(a) regulations 83 (time and manner in which claims are to be made), 84(1) and 85(1) and(4) (date of claim);
- (b) regulation 93(3) (adjustments to payments to take account of underpayment or overpayment on account of rent allowance);
- (c) regulation 95 (circumstances in which payment is to be made to a landlord);
- (d) regulation 96 (circumstances in which payment may be made to a landlord);
- (e) regulation 100 (recoverable overpayments);
- (f) regulation 101 (person from whom recovery may be sought);
- (g) regulation 103 (diminution of capital); or
- (h) regulation 104 (sums to be deducted in calculating recoverable overpayments).◀

<sup>1</sup>Paras. 1(a)-(h) & 2(a)-(e) substituted & paras. 1A & 2A inserted by para. 17(3)(e) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

▶<sup>1</sup>A. No appeal shall lie against a decision made by virtue of, or as a consequence of, any of the provisions in Part 9 (claims), Part 11 (payments) and Part 12 (overpayments) of the Housing Benefit (State Pension Credit) Regulations except a decision under—

- (a) regulations 64 (time and manner in which claims are to be made), 65(1) and 66(1) and(4) (date of claim);
- (b) regulation 74(3) (adjustments to payments to take account of underpayment or overpayment on account of rent allowance);
- (c) regulation 76 (circumstances in which payment is to be made to a landlord);
- (d) regulation 77 (circumstances in which payment may be made to a landlord);
- (e) regulation 81 (recoverable overpayments);
- (f) regulation 84 (diminution of capital); or
- (g) regulation 85 (sums to be deducted in calculating recoverable overpayments).◀

2. No appeal shall lie against a decision made by virtue of, or as a consequence of, any of the provisions in Part VIII (claims), Part X (awards or payments of benefit) and Part XI (excess benefit) of the Council Tax Benefit Regulations except a decision under—

- ▶<sup>1</sup>(a) regulations 69 (time and manner in which claims are to be made), 69(1) and 70(1) and (4) (date of claim);
- (b) regulation 83 (recoverable excess benefit);
- (c) regulation 85 (person from whom recovery may be sought);
- (d) regulation 88 (diminution of capital); or
- (e) regulation 89 (sums to be deducted in calculating recoverable excess benefit).◀

▶<sup>1</sup>2A. No appeal shall lie against a decision made by virtue of, or as a consequence of, any of the provisions in Part 7 (claims), Part 9 (awards or payments of benefit) and Part 10 (excess benefit) of the Council Tax Benefit (State Pension Credit) Regulations except a decision under—

- (a) regulations 53 (time and manner in which claims are to be made), 54(1) and 55(1) and (4) (date of claim);
- (b) regulation 68 (recoverable excess benefit);
- (c) regulation 70 (persons from whom recovery may be sought);
- (d) regulation 73 (diminution of capital); or

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(e) regulation 74 (sums to be deducted in calculating recoverable excess benefit).◀

3. Subject to paragraphs 1(f) and 2(c), no appeal shall lie against a decision as to the exercise of discretion to recover an overpayment of housing benefit or, as the case may be, excess council tax benefit.

4. No appeal shall lie against a decision of a relevant authority under paragraph 16(3)(a) or (b) and (4) of Schedule 7 to the Act (decisions involving issues that arise on appeal in other cases).

5. No appeal shall lie against a decision under Part III of these Regulations of a relevant authority relating to—

- (a) suspension of a payment of benefit or of a reduction; or
- (b) restoration following a suspension of payment of benefit or of a reduction,

except a decision that entitlement to benefit is terminated under regulation 14.

<sup>1</sup>Para. 6 inserted into the Sch. by reg. 3 of S.I. 2003/1581 as from 18.6.03.

<sup>2</sup>Words substituted in para. 6 by para. 17(3)(e)(v) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

▶<sup>1</sup>6. No appeal shall lie against the calculation or estimate of the claimant's, or the claimant's partner's, income or capital used by a relevant authority in accordance with ▶<sup>2</sup>regulation 27(1) of the Housing Benefit (State Pension Credit) Regulations or regulation 17(1) of the Council Tax Benefit (State Pension Credit) Regulations◀ (calculation of claimant's income in savings credit only cases), as modified, in both cases, by the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003(a).◀

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made by virtue of, or in consequence of, provisions in the Child Support, Pensions and Social Security Act 2000 (c. 19) ("the Act"). The Regulations supplement changes introduced by the Act to the decision-making process for housing benefit and council tax benefit and to the new appeals system.

The Regulations are made before the end of the period of six months beginning with the coming into force of the relevant provisions in the Act and are therefore exempt from the requirement in s 172(1) of the Social Security Administration Act 1992 (c. 5) to refer proposals to make these Regulations to the Social Security Advisory Committee and are made without reference to that Committee. The Regulations are made after consultation with organisations appearing to the Secretary of State to be representative of the authorities concerned in accordance with s 176(1) of the Social Security Administration Act, and after consultation with the Council on Tribunals in accordance with s. 8 of the Tribunal and Inquiries Act 1992 (c. 53).

Part I contains provisions relating to citation, commencement, interpretation and service of documents. It also includes a provision as to treating a person as a person affected by a decision.

Part II makes provision as to the circumstances in which a relevant authority may revise or supersede decisions, when such decisions take effect and related procedural matters.

Part III makes provision for the suspension and termination of housing benefit and council tax benefit and decisions involving issues that arise in appeals in other cases.

Part IV and the Schedule make provision in respect of rights of appeal and procedure for bringing appeals.

Part V makes provision in respect of appeal tribunal composition and procedure.

These Regulations do not impose a charge on business.

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(a) S.I. 2003/325.