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STATUTORY INSTRUMENTS

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**2006 No. 213**

**The Housing Benefit Regulations 2006**

**PART 10**

**Claims**

**Who may claim**

**82.**—(1) In the case of a couple or members of a polygamous marriage a claim shall be made by whichever one of them they agree should so claim or, in default of agreement, by such one of them as the relevant authority shall determine.

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

- (a) a receiver has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
- (b) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000<sup>(1)</sup> who has power to claim or, as the case may be, receive benefit on his behalf; or
- (c) an attorney with a general power or a power to claim or as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971<sup>(2)</sup> or the Enduring Powers of Attorney Act 1985<sup>(3)</sup>,

that receiver, judicial factor, guardian or attorney, as the case may be, may make a claim on behalf of that person.

(3) Where a person who is liable to make payments in respect of a dwelling is unable for the time being to act and paragraph (2) does not apply to him, the relevant authority may, upon written application made to them by a person who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under the Act and to receive and deal on his behalf with any sums payable to him.

(4) Where the relevant authority has made an appointment under paragraph (3) or treated a person as an appointee under paragraph (5)—

- (a) it may at any time revoke the appointment;
- (b) the person appointed may resign his office after having given 4 weeks notice in writing to the relevant authority of his intention to do so;
- (c) any such appointment shall terminate when the relevant authority is notified that a receiver or other person to whom paragraph (2)(b) or (c) applies has been appointed.

(5) Where a person who is liable to make payments in respect of a dwelling is for the time being unable to act and the Secretary of State has appointed a person to act on his behalf for the purposes

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(1) 2004 asp 4  
(2) 1971 c. 27.  
(3) 1985 c. 29.

of the Act the relevant authority may, if that person agrees, treat him as if he had been appointed by them under paragraph (3).

(6) Anything required by these Regulations to be done by or to any person who is for the time being unable to act may be done by or to the receiver, judicial factor, guardian or attorney, if any, or by or to the person appointed or treated as appointed under this regulation and the receipt of any such person so appointed shall be a good discharge to the relevant authority for any sum paid.

(7) Where a claim is made at an office displaying the **ONE** logo, references in this regulation to a “relevant authority” shall be read as including a reference to the “designated authority”.

### **Time and manner in which claims are to be made**

**83.**—(1) Every claim shall be in writing and made on a properly completed form approved for the purpose by the relevant authority or in such written form as the relevant authority may accept as sufficient in the circumstances of any particular case or class of cases having regard to the sufficiency of the written information and evidence.

(2) The forms approved for the purpose of claiming shall be provided free of charge by the relevant authority or such persons as they may authorise or appoint for the purpose.

(3) Each relevant authority shall notify the Secretary of State of the address to which claims delivered or sent to the appropriate DWP office are to be forwarded.

(4) A claim—

- (a) may be sent or delivered to the appropriate DWP office where the claimant or his partner is also claiming income support, incapacity benefit, state pension credit or a jobseeker’s allowance;
- (b) where it has not been sent or delivered to the appropriate DWP office, shall be sent or delivered to the designated office;
- (c) sent or delivered to the appropriate DWP office, other than one sent on the same form as a claim being made to income support, incapacity benefit or a jobseeker’s allowance and as approved by the Secretary of State for the purpose of the benefits being claimed, shall be forwarded to the relevant authority within two working days of the date of the receipt of the claim at the appropriate DWP office, or as soon as practicable thereafter;
- (d) may, in the case of a claimant who has attained the age of 16 but not the age of 60 and is not engaged in remunerative work, be sent or delivered to a gateway office;
- (e) may be sent or delivered where the claimant has attained the age of 16 but not the age of 60 to an office or designated authority displaying the **ONE** logo;
- (f) where the claimant has attained the qualifying age for state pension credit, may be sent or delivered to an authorised office.

(5) Subject to paragraph (10), and to regulation 84 (date of claim where claim sent or delivered to a gateway office) the date on which a claim is made shall be—

- (a) in a case where an award of income support or an income-based jobseeker’s allowance has been made to the claimant or his partner and the claim for housing benefit is made within one month of the date on which the claim for that income support or jobseeker’s allowance was received at the appropriate DWP office, the first day of entitlement to income support or an income-based jobseeker’s allowance arising from that claim; and for the purposes of this sub-paragraph a person who has an award entitling him to an income-based jobseeker’s allowance shall be treated as also entitled to an income-based jobseeker’s allowance for any days which immediately precede the first day in that award and on which in accordance with paragraph 4 of Schedule 1 to the Jobseekers Act (waiting days) he would not be entitled to that allowance;

- (b) in a case where the claimant or his partner is a person on income support or an income-based jobseeker's allowance and he becomes liable for the first time to make payments in respect of the dwelling which he occupies as his home, where the claim is received at the designated office or appropriate DWP office within one month of the claimant first becoming liable for such payments, the date he became liable for those payments;
  - (c) in a case where the claimant is the former partner of a person who was, at the date of his death or their separation, entitled to housing benefit and the claimant makes a claim within one month of the date of the death or the separation, that date;
  - (d) except where sub-paragraph (a), (b) or (c) is satisfied, in a case where a properly completed claim is received in a designated office, an authorised office or an appropriate DWP office within one month, or such longer period as the relevant authority considers reasonable, of the date on which the claim form was issued following the claimant first notifying, by whatever means, a designated office, an authorised office or an appropriate DWP office of his intention of making a claim, the date of first notification; and
  - (e) in any other case, the date on which the claim is received at the designated office, authorised office or appropriate DWP office.
- (6) Where a claim received at the designated office has not been made in the manner prescribed in paragraph (1), that claim is for the purposes of these Regulations defective.
- (7) Where a claim is defective because—
- (a) it was made on the form approved for the purpose but that form is not accepted by the relevant authority as being properly completed; or
  - (b) it was made in writing but not on the form approved for the purpose and the relevant authority does not accept the claim as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence,
- the relevant authority may, in a case to which sub-paragraph (a) applies, request the claimant to complete the defective claim or, in the case to which sub-paragraph (b) applies, supply the claimant with the approved form or request further information or evidence.
- (8) The relevant authority shall treat a defective claim as if it had been validly made in the first instance if—
- (a) where paragraph (7)(a) applies, the authority receives at the designated office the properly completed claim or the information requested to complete it or the evidence within one month of the request, or such longer period as the relevant authority may consider reasonable; or
  - (b) where paragraph (7)(b) applies—
    - (i) the approved form sent to the claimant is received at the designated office properly completed within one month of it having been sent to him; or, as the case may be,
    - (ii) the claimant supplies whatever information or evidence was requested under paragraph (7) within one month of the request,or within such longer period as the relevant authority may consider reasonable.
- (9) A claim which is made on an approved form for the time being is, for the purposes of this regulation, properly completed if completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the claim.
- (10) Where the claimant is not entitled to housing benefit in the benefit week immediately following the date of his claim but the relevant authority is of the opinion that unless there is a change of circumstances he will be entitled to housing benefit for a period beginning not later than the thirteenth benefit week following the date on which the claim is made, the relevant authority

may treat the claim as made on a date in the benefit week immediately preceding the first benefit week of that period of entitlement and award benefit accordingly.

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

(12) Where the claimant makes a claim in respect of a past period (a “claim for backdating”) and, from a day in that period up to the date of the claim for backdating, he had continuous good cause for his failure to make a claim, his claim in respect of that period shall be treated as made on—

- (a) the first day from which he had continuous good cause; or
- (b) the day 52 weeks before the date of the claim for backdating,

whichever fell later.

(13) In this regulation “authorised office” means an office which is nominated by the Secretary of State and authorised by the relevant authority for receiving claims for decision by the relevant authority.

#### **Date of claim where claim sent or delivered to a gateway office**

**84.**—(1) Subject to paragraph (10) of regulation 83 (time and manner in which claims are to be made), and with the exception of those claims to which paragraph (3) of this regulation refers, where a claim for housing benefit has been sent or delivered to a gateway office in accordance with sub-paragraph (d) of paragraph (4) of regulation 83, the date on which that claim is made shall be—

- (a) in a case where a claimant or his partner—
  - (i) is a person who has been awarded income support or an income-based jobseeker’s allowance; and
  - (ii) first notifies his intention to claim housing benefit within one month of the date on which his claim for that income support or jobseeker’s allowance was received at an appropriate DWP office,

the first day of entitlement to income support or an income-based jobseeker’s allowance, but if the first notification is by any means other than a claim which meets the requirements of regulation 83(1) such a claim must be received at a gateway office within one month of that notification; and for the purposes only of this sub-paragraph a person who has been awarded an income-based jobseeker’s allowance shall be treated as also entitled to that allowance for any days which immediately precede the first day in that award and on which he would, but for regulations made under paragraph 4 of Schedule 1 to the Jobseekers Act (waiting days) have been entitled to that allowance;

- (b) in a case where the claimant or his partner—
  - (i) claimed income support or a jobseeker’s allowance; but
  - (ii) has no entitlement to income support or an income-based jobseeker’s allowance,

the first date on which notification is deemed to be given in accordance with paragraph (2), but if that notification is by any means other than a claim which meets the requirements of regulation 83(1) such a claim must be received at a gateway office within one month of that notification;
- (c) in a case where a claimant or his partner—
  - (i) is a person on income support or entitled to an income-based jobseeker’s allowance;
  - (ii) has become liable for the first time to make payments in respect of the dwelling which he occupies as his home; and

(iii) first notifies his intention to make a claim for housing benefit within one month of the commencement of the rental liability,

the date on which the liability to make those payments arises, but if the first notification is by any means other than a claim which meets the requirements of regulation 83(1) such a claim must be received at the gateway office within one month of that notification;

(d) in a case where neither the claimant nor his partner is a person on income support or entitled to an income-based jobseeker's allowance, the first date on which notification is deemed to be made in accordance with paragraph (2), but if that notification is by any means other than a claim which meets the requirements of regulation 83(1) such a claim must be received at the gateway office within one month of that notification; or

(e) in any other case, the date on which the claim for housing benefit is received at the gateway office.

(2) A notification of intention to make a claim is deemed to be given on the date on which notification from the claimant of his intention to claim housing benefit in whatever form is received at a gateway office.

(3) This regulation does not apply to claims which are made at an office of a designated authority in accordance with regulation 83(4)(e).

#### **Date of claim where claim sent or delivered to an office of a designated authority**

**85.**—(1) Where a claim for housing benefit has been sent or delivered to an office of a designated authority in accordance with regulation 83(4)(e), the date on which the claim is made shall be—

(a) except where paragraph (b) applies, the date the claim is received at the office of the designated authority; or

(b) where in the one month before the claim is received in an office of a designated authority, the person making the claim or a person acting on his behalf had notified an office of a designated authority of his intention to make such a claim, the date the notification was given.

(2) A notification of intention to make a claim is deemed to be given on the date on which notification of the intention to claim housing benefit is received, in whatever form, from the claimant, or the person acting on his behalf, at an office of a designated authority.

(3) Paragraph (2) applies where neither income support nor a jobseeker's allowance is claimed in conjunction with housing benefit.

(4) Where the person claiming housing benefit in accordance with regulation 83(4)(e), or the partner of that person—

(a) has an award of income support or income-based jobseeker's allowance; or

(b) has claimed such a benefit but no award has been made,

the date on which the claim for housing benefit is made shall be determined as if sub-paragraphs (a), (b), (c) and (e) of paragraph (1) of regulation 84 applied to that claim as they apply to claims under regulation 83(4)(d).

#### **Evidence and information**

**86.**—(1) Subject to paragraph (2) and to paragraph 5 of Schedule A1(4) (treatment of claims for housing benefit by refugees), a person who makes a claim, or a person to whom housing benefit has been awarded, shall furnish such certificates, documents, information and evidence in connection

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(4) See the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217), regulation 7 and Schedule 4, paragraph 2 for claims by refugees.

with the claim or the award, or any question arising out of the claim or the award, as may reasonably be required by the relevant authority in order to determine that person's entitlement to, or continuing entitlement to, housing benefit and shall do so within one month of being required to do so or such longer period as the relevant authority may consider reasonable.

(2) Nothing in this regulation shall require a person to furnish any certificates, documents, information or evidence relating to a payment to which paragraph (4) applies.

(3) Where a request is made under paragraph (1), the relevant authority shall—

- (a) inform the claimant or the person to whom housing benefit has been awarded of his duty under regulation 88 (duty to notify change of circumstances) to notify the designated office of any change of circumstances; and
- (b) without prejudice to the extent of the duty owed under regulation 88, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change or circumstances which is to be notified.

(4) This paragraph applies to any of the following payments—

- (a) a payment which is—
  - (i) disregarded under paragraph 23 of Schedule 5 (income in kind) or paragraph 34 of Schedule 6 (certain payments in kind); and
  - (ii) made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No 2) Trust, the Fund, the Eileen Trust, the Skipton Fund or the London Bombings Relief Charitable Fund;
- (b) a payment which is disregarded under paragraph 35 of Schedule 5 or paragraph 24 of Schedule 6 (payments made under certain trusts and certain other payments), other than a payment made under the Independent Living Funds;
- (c) a payment which is disregarded under regulation 74(9)(b) or (c) (income of non-dependant) other than a payment made under the Independent Living Funds.

(5) Where a claimant or a person to whom housing benefit has been awarded or any partner is aged not less than 60 and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, or is a party to, or a person deriving entitlement to a pension under, a retirement annuity contract, he shall where the relevant authority so requires furnish the following information—

- (a) the name and address of the pension fund holder;
- (b) such other information including any reference or policy number as is needed to enable the personal pension scheme or retirement annuity contract to be identified.

(6) Where the pension fund holder receives from a relevant authority a request for details concerning a personal pension scheme or retirement annuity contract relating to a person or any partner to whom paragraph (5) refers, the pension fund holder shall provide the relevant authority with any information to which paragraph (7) refers.

(7) The information to which this paragraph refers is—

- (a) where the purchase of an annuity under a personal pension scheme has been deferred, the amount of any income which is being withdrawn from the personal pension scheme;
- (b) in the case of—
  - (i) a personal pension scheme where income withdrawal is available, the maximum amount of income which may be withdrawn from the scheme; or
  - (ii) a personal pension scheme where income withdrawal is not available, or a retirement annuity contract, the maximum amount of income which might be withdrawn from

the fund if the fund were held under a personal pension scheme where income withdrawal was available,  
calculated by or on behalf of the pension fund holder by means of tables prepared from time to time by the Government Actuary which are appropriate for this purpose.

#### **Amendment and withdrawal of claim**

**87.**—(1) A person who has made a claim may amend it at any time before a decision has been made on it, by a notice in writing delivered or sent to the designated office and any claim so amended shall be treated as if it had been amended in the first instance.

(2) A person who has made a claim may withdraw it at any time before a decision has been made on it, by notice to the designated office, and any such notice of withdrawal shall have effect when it is received.

#### **Duty to notify changes of circumstances**

**88.**—(1) Subject to paragraphs (3) and (5), if at any time between the making of a claim and a decision being made on it, or during the award of housing benefit, there is a change of circumstances which the claimant, or any person by whom or on whose behalf sums payable by way of housing benefit are receivable, might reasonably be expected to know might affect the claimant's right to, the amount of or the receipt of housing benefit, that person shall be under a duty to notify that change of circumstances by giving notice in writing to the designated office.

(2) In the case of a claimant who sent or delivered his claim to a gateway office in accordance with regulation 84 (date of claim where claim sent or delivered to a gateway office), a change of circumstances may be reported in writing to that office, or to any other gateway office of which he was notified on or with his claim form.

(3) The duty imposed on a person by paragraph (1) does not extend to changes in—

- (a) the amount of rent payable to a housing authority;
- (b) the age of the claimant or that of any member of his family or of any non-dependants;
- (c) these Regulations;
- (d) in the case of a claimant on income support, any circumstances which affect the amount of income support or an income-based jobseeker's allowance but not the amount of housing benefit to which he is entitled, other than the cessation of that entitlement to income support or an income-based jobseeker's allowance.

(4) Notwithstanding paragraph (3)(b) or (d) a claimant shall be required by paragraph (1) to notify the designated office of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he ceases to be a child or young person.

(5) Where a person resides in a postcode district identified in Part I or 2 of Schedule 2 to the Social Security (Claims and Information) Regulations 1999(5), he may notify the change of circumstances by giving notice in writing to any office of a designated authority displaying the **ONE** logo.