
DRAFT STATUTORY INSTRUMENTS

2001 No.

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

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) An appeal made against a decision specified in the Schedule to these Regulations may be struck out in accordance with the provisions in regulation 23 of these Regulations and regulation 46 of the Decisions and Appeals Regulations 1999.

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

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 appeal 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.

Time within which an appeal is to be brought

18.—(1) Subject to the following paragraphs and regulation 19, an appeal which lies from a relevant decision must be brought within one month of the date of notification of that decision.

(2) For the purposes of calculating the period in paragraph (1), 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.

(3) Where the relevant authority—

- (a) revises a decision under paragraph 3 of Schedule 7 to the Act;
- (b) following an application for a revision under regulation 4, does not revise; or
- (c) supersedes a decision under paragraph 4 of Schedule 7 to the Act,

subject to paragraph (2), the period of one month shall begin to run from the date of notification of that revision or supersession, or following an application for a revision, the date the authority issues a notice that it is not revising the decision.

(4) Where a dispute arises as to whether an appeal was brought within the time limit specified in this regulation, the dispute shall be referred to, and be determined by, a legally qualified panel member.

(5) The time limit specified in this regulation for bringing an appeal may be extended in accordance with regulation 19.

Late appeals

19.—(1) Subject to the following paragraphs, the time limit referred to in regulation 18 may be extended only if the conditions set out in this regulation are satisfied.

(2) No appeal shall be brought more than one year after the expiration of the last day for appealing under regulation 18.

(3) An application for an extension of time within which an appeal may be brought (“an application”) shall be determined by a legally qualified panel member.

(4) An application shall contain particulars of the grounds on which the extension of time is sought, including details of any relevant special circumstances for the purposes of paragraph (7).

(5) An application shall not be granted unless the panel member is satisfied that—

- (a) if the application is granted there are reasonable prospects that the appeal will be successful; or
- (b) it is in the interests of justice for the application to be granted.

(6) For the purposes of paragraph (5)(b), it is not in the interests of justice to grant an application unless the panel member is satisfied that—

- (a) any of the special circumstances specified in paragraph (7) are relevant to the application; or
- (b) some other special circumstances exist which are wholly exceptional and relevant to the application,

and as a result of those special circumstances, it was not practicable for the appeal to be made within the time limit referred to in regulation 18.

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

- (a) the applicant or a partner or dependant of the applicant has died or suffered serious illness;
- (b) the applicant 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 grant the application, the panel member shall have regard to the principle that the greater the amount of time that has elapsed between the expiration of the time within which the appeal is to be brought under regulation 18 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.

(9) In determining whether it is in the interests of justice 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 a Commissioner or a court has taken a different view of the law from that previously understood and applied.

(10) An application under this regulation which has been refused may not be renewed.

(11) The panel member who determines an application shall record a summary of his decision in such written form as has been approved by the President.

(12) As soon as practicable after the decision is made, a copy of the decision shall be sent or given to the principal parties to the proceedings.

Making of appeals and applications

20.—(1) An appeal or application for an extension of time must—

- (a) be in writing on a form approved for the purpose by the relevant authority or in such other format as the relevant authority may accept;
- (b) be signed by the person who has a right of appeal under paragraph 6(3) of Schedule 7 to the Act;
- (c) be delivered, by whatever means, to the relevant authority, or in a case to which the Work-focused Interviews Regulations apply, either to the relevant authority or to an office of a designated authority which displays the ONE logo;
- (d) contain particulars of the grounds on which it is made; and
- (e) contain sufficient particulars of the decision or subject of the application to enable that decision or subject of the application to be identified.

(2) A form which is not completed in accordance with the instructions on the form, except where paragraph (3) applies, does not satisfy the requirements of paragraph (1), and may be returned by the relevant authority to the sender for completion in accordance with those instructions.

(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 or application to proceed, it may treat the form as satisfying the requirements of paragraph (1).

(4) Where an appeal or application is made in writing otherwise than on the approved form (“the letter”), and the letter includes sufficient information to enable the appeal or application to proceed, the relevant authority may treat the letter as satisfying the requirements of paragraph (1).

(5) Where the letter does not include sufficient information to enable the appeal or application 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;
- (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 a legally qualified panel member; and
- (b) the panel member shall determine whether the form or the letter satisfies the requirements of paragraph (1), and shall inform the relevant authority and appellant or applicant of his determination.

(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 legally qualified panel member 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 the appeal has not been forwarded to the clerk to an appeal tribunal or to a legally qualified panel member 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.