
DRAFT STATUTORY INSTRUMENTS

2001 No.

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

PART II

REVISIONS AND SUPERSESSIONS

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 ground 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 in accordance with regulations 68 and 68A of the Housing Benefit Regulations⁽¹⁾ or, as the case may be, regulations 59 and 59A of the Council Tax Benefit Regulations⁽²⁾.

(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(4) Where the superseding decision is advantageous to the claimant and is made on the ground that the superseded decision was made in ignorance of, or was based upon a mistake as to, some material fact, the superseding decision shall take effect from the first day of the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(b) applies, the appropriate relevant authority first has information which is sufficient to show that the superseded decision was made in ignorance of, or was based upon a mistake as to, some material fact;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.

(1) Regulation 68 was amended by S.I. 1990/546, 1992/432, 1994/578, 1995/511, 1999/2734 and 2000/897. Regulation 68A was inserted by S.I. 2000/897 and amended by S.I. 2000/1926.

(2) Regulation 59 was amended by S.I. 1993/688, 1994/578, 1995/511 and 2000/897. Regulation 59A was inserted by S.I. 2000/897 and amended by S.I. 2000/1926.

(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).

(6) A superseding decision made in consequence of a rent officer's redetermination, substitute determination or substitute redetermination 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 regulation 68 of the Housing Benefit Regulations as if that determination or redetermination were the relevant change of circumstances.

(7) Where a decision is made superseding a decision of an appeal tribunal or of a Commissioner ("the appeal decision") which—

- (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.