

2010 No. 2449

SOCIAL SECURITY

**The Housing Benefit and Council Tax Benefit (Miscellaneous
Amendments) Regulations 2010**

Made - - - - *6th October 2010*

Laid before Parliament *11th October 2010*

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by—

—sections 123(1)(d) and (e), 130A, 135(1), 136(5)(b), 137(1) and (2)(h) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a),

—sections 5(1)(a), (b), (j) and (p), 6(1)(a), (b) and (k), 111A(1A) to (1E), 112(1A) to (1D), 134(8)(a), 139(6)(a), 189(1), (4) and (6) and 191(1) of the Social Security Administration Act 1992(b),

—section 79(4), (6) and (7) of the Social Security Act 1998(c), and

—paragraphs 4(6), 6(7), 20(1) and 23(1) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(d).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it.

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- (a) 1992 c.4. Section 123(1)(e) was substituted by the Local Government Finance Act 1992 (c. 14), Schedule 9, paragraph 1(1). Section 130A was inserted by the Welfare Reform Act 2007 (c.5), section 30(2). Section 137(1) is an interpretation provision and is cited for the definition of “prescribed”. Section 175(1) was amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Schedule 3, paragraph 29.
- (b) 1992 c.5. Section 6 was amended by the Local Government Finance Act 1992, Schedule 9, paragraph 12. Section 111A was inserted by the Social Security Administration (Fraud) Act 1997 (c.47), section 13. Sections 111A and 112 were amended by the Social Security Fraud Act 2001 (c.11), section 16. Sections 134(8)(a) and 139(6)(a) were amended by the Welfare Reform Act 2007, Schedule 5, paragraphs 3 and 4. Section 189(1), (4) and (5) were amended by the Social Security Act 1998 (c.14), Schedule 7, paragraph 109. Section 191(1) is an interpretation provision and is cited for the definition of “prescribe”.
- (c) 1998 c. 14. Section 79(4) and (6) are applied to the provisions of the Child Support, Pensions and Social Security Act 2000 (c. 19) by Schedule 7, paragraph 20(3) of that Act.
- (d) 2000 c. 19. Paragraph 23(1) is an interpretation provision and is cited for the definition of “prescribed”.

In accordance with section 176(1) of the Social Security Administration Act 1992, consultation has taken place with organisations appearing to the Secretary of State to be representative of the authorities concerned.

Citation and commencement

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) Regulations 2010.

(2) Subject to paragraph (3), these Regulations come into force on 1st November 2010.

(3) Regulations 2(8)(a) and (10), 3(8), 4(5)(a) and (7)(b) and 5(7) come into force on—

- (a) 4th April 2011 in relation to any case where rent is payable at intervals of a week or any multiple of a week; and
- (b) 1st April 2011 in relation to any other case.

Amendment of the Housing Benefit Regulations 2006

2.—(1) The Housing Benefit Regulations 2006(a) are amended as follows.

(2) In regulation 2(1) (interpretation) for the definition of “Housing Act functions” substitute—

““Housing Act functions” means functions under section 122 of the Housing Act 1996;”.

(3) In regulation 21(3) (circumstances in which a person is to be treated as being or not being a member of the household) after “as a member of the claimant’s household” insert “, nor as occupying the claimant’s dwelling.”.

(4) In regulation 83 (time and manner in which claims are to be made) for paragraph (12)(b) substitute—

“(12) Where a claimant (“C”)—

- (a) makes a claim which includes (or which C subsequently requests should include) a period before the claim is made; and
- (b) from a day in that period, up to the date when C made the claim (or subsequently requested that the claim should include a past period), C had continuous good cause for failing to make a claim (or request that the claim should include that period),

the claim is to be treated as made on the date determined in accordance with paragraph (12A).

(12A) That date is the latest of—

- (a) the first day from which C had continuous good cause;
- (b) the day 6 months before the date the claim was made;
- (c) the day 6 months before the date when C requested that the claim should include a past period.”.

(5) In regulation 88(1) (duty to notify changes of circumstances) for sub-paragraphs (a) and (b) substitute—

“(a) in writing; or

(b) by telephone—

- (i) where the relevant authority has published a telephone number for that purpose or for the purposes of regulation 83 (time and manner in which claims

(a) S.I. 2006/213.

(b) Paragraph (12) was amended by S.I. 2008/2424.

(c) Paragraph (1) was amended by S.I. 2006/2967, 2008/2299 and 2008/2987.

are to be made) unless the authority determines that in any particular case or class of case notification may not be given by telephone; or

(ii) in any case or class of case where the relevant authority determines that notice may be given by telephone; or

(c) by any other means which the relevant authority agrees to accept in any particular case.”.

(6) In regulation 90(2) (notification of decisions) after “signed by him,” insert “within one month of the date of the notification of that decision (or, if the decision was notified before 1st November 2010, before 1st December 2010)”.

(7) In regulation 96(2) (circumstances in which payment may be made to a landlord) omit “by sending to the claimant an instrument of payment payable”.

(8) In Schedule 3(a) (applicable amounts)—

(a) in Part 2 (family premium) for paragraph 3(2) substitute—

“(2) The amounts specified in sub-paragraph (1)(a) and (b) shall be increased by £10.50 where the claimant or the claimant’s partner is in receipt of child tax credit and the family element includes the amount in regulation 7(3)(a) of the Child Tax Credit Regulations 2002(b).”; and

(b) in Part 4 (amounts of premiums specified in Part 3), in paragraph 20(9) in Column 1 omit “where the conditions in paragraph 15 are satisfied”.

(9) In Schedule 4 (sums to be disregarded in the calculation of earnings), in paragraph 17(3)(c) for “paragraphs 3 to 10” substitute “paragraphs 3 to 10A”.

(10) In Schedule 5 (sums to be disregarded in the calculation of income other than earnings), in paragraph 25(d)—

(a) in sub-paragraph (1) omit “to the extent specified in sub-paragraph (3)”; and

(b) omit sub-paragraph (3).

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

3.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(e) are amended as follows.

(2) In regulation 2(1) (interpretation) for the definition of “Housing Act functions” substitute—

““Housing Act functions” means functions under section 122 of the Housing Act 1996(f);”.

(3) In regulation 21(3) (circumstances in which a person is to be treated as being or not being a member of the household) after “as a member of the claimant’s household” insert “, nor as occupying the claimant’s dwelling.”.

(4) In regulation 64(g) (time and manner in which claims are to be made)—

(a) in paragraph (1) at the beginning insert “Subject to paragraph (1A).”; and

(b) after paragraph (1) insert—

“(1A) In any case where paragraph (6)(a) applies, paragraph (1) does not entitle a claimant to claim housing benefit in respect of any day earlier than 3 months before the date on which the claim for state pension credit is made (or treated as made by virtue of any provision of the Social Security (Claims and Payments) Regulations 1987).”.

(a) Paragraphs 3(2) and 20(9) were amended by S.I. 2010/793.

(b) S.I. 2002/2007.

(c) Paragraph 17 was amended by S.I. 2008/1042, 2008/1082 (as amended by S.I. 2008/2428), 2009/2608 and 2010/793.

(d) Paragraph 25 was amended by S.I. 2008/1042, 2008/3157 and 2009/2655.

(e) S.I. 2006/214.

(f) 1996 c.52. Section 122 was amended by Schedule 5, paragraph 12 and Schedule 8 to the Welfare Reform Act 2007 (c.5).

(g) Paragraph (1) was amended by S.I. 2008/2424.

(5) In regulation 69(1)(a) (duty to notify changes of circumstances) for sub-paragraphs (a) and (b) substitute—

- “(a) in writing; or
- (b) by telephone—
 - (i) where the relevant authority has published a telephone number for that purpose or for the purposes of regulation 64 (time and manner in which claims are to be made) unless the authority determines that in any particular case or class of case notification may not be given by telephone; or
 - (ii) in any case or class of case where the relevant authority determines that notice may be given by telephone; or
- (c) by any other means which the relevant authority agrees to accept in any particular case.”.

(6) In regulation 71(2) (notification of decisions) after “signed by him,” insert “within one month of the date of the notification of that decision (or, if the decision was notified before 1st November 2010, before 1st December 2010)”.

(7) In regulation 77(2) (circumstances in which payment may be made to a landlord) omit “by sending to the claimant an instrument of payment payable”.

(8) In Schedule 3 (applicable amounts), in Part 2 (family premium) for paragraph 3(2)(b) substitute—

“(2) The amount specified in sub-paragraph (1) shall be increased by £10.50 where the claimant or the claimant’s partner is in receipt of child tax credit and the family element includes the amount in regulation 7(3)(a) of the Child Tax Credit Regulations 2002.”.

Amendment of the Council Tax Benefit Regulations 2006

4.—(1) The Council Tax Benefit Regulations 2006(c) are amended as follows.

(2) In regulation 69 (time and manner in which claims are to be made) for paragraph (14) substitute—

- “(14) Where a claimant (“C”)—
- (a) makes a claim which includes (or which C subsequently requests should include) a period before the claim is made; and
 - (b) from a day in that period, up to the date when C made the claim (or subsequently requested that the claim should include a past period), C had continuous good cause for failing to make a claim (or request that the claim should include that period),

the claim is to be treated as made on the date determined in accordance with paragraph (14A).

- (14A) That date is the latest of—
- (a) the first day from which C had continuous good cause;
 - (b) the day 6 months before the date the claim was made;
 - (c) the day 6 months before the date when C requested that the claim should include a past period.”.

(3) In regulation 74(1) (duty to notify changes of circumstances) for sub-paragraphs (a) and (b) substitute—

- “(a) in writing; or
- (b) by telephone—

(a) Paragraph (1) was amended by S.I. 2006/2967, 2008/2299 and 2008/2987.
(b) Paragraph 3 was amended by S.I. 2010/793.
(c) S.I. 2006/215.

- (i) where the relevant authority has published a telephone number for that purpose or for the purposes of regulation 69 (time and manner in which claims are to be made) unless the authority determines that in any particular case or class of case notification may not be given by telephone; or
 - (ii) in any case or class of case where the relevant authority determines that notice may be given by telephone; or
 - (c) by any other means which the relevant authority agrees to accept in any particular case.”.
- (4) In regulation 76(2) (notification of decisions) after “notification of a decision may” insert “, within one month of the date of the notification of that decision (or, if the decision was notified before 1st November 2010, before 1st December 2010),”.
- (5) In Schedule 1(a) (applicable amounts)—
- (a) in Part 2 (family premium) for paragraph 3(2) substitute—
 - “(2) The amounts specified in sub-paragraph (1)(a) and (b) shall be increased by £10.50 where the claimant or the claimant’s partner is in receipt of child tax credit and the family element includes the amount in regulation 7(3)(a) of the Child Tax Credit Regulations 2002.”; and
 - (b) in Part 4 (amounts of premiums specified in Part 3) in paragraph 20(9) in Column 1 omit “where the conditions in paragraph 15 are satisfied”.
- (6) In Schedule 3 (sums to be disregarded in the calculation of earnings), in paragraph 16(3)(b) for “paragraphs 3 to 10” substitute “paragraphs 3 to 10A”.
- (7) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings)—
- (a) renumber as paragraph 48A the paragraph 8A inserted by regulation 8(6)(d) of the Social Security (Miscellaneous Amendments) (No. 4) Regulations 2009(c); and
 - (b) in paragraph 26—
 - (i) in sub-paragraph (1) omit “to the extent specified in sub-paragraph (3)”;
 - (ii) omit sub-paragraph (3).

Amendment of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

5.—(1) The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(d) are amended as follows.

(2) In regulation 11(3)(c) for “Adoption Agencies Regulations 1983” substitute “Adoption and Children Act 2002”.

(3) In regulation 53 (time and manner in which claims are to be made)—

- (a) in paragraph (1ZA) at the beginning insert “Subject to paragraph (1ZB),”; and
- (b) after paragraph (1ZA) insert—

“(1ZB) In any case where paragraph (5)(a) applies, paragraph (1ZA) does not entitle a claimant to claim council tax benefit in respect of any day earlier than 3 months before the date on which the claim for state pension credit is made (or treated as made by virtue of any provision of the Social Security (Claims and Payments) Regulations 1987).”.

(4) Omit regulation 56 (time for claiming council tax benefit).

(5) In regulation 59(1) (duty to notify changes of circumstances) for sub-paragraphs (a) and (b) substitute—

(a) Paragraphs 3(2) and 20(9) were amended by S.I. 2010/793.
 (b) Paragraph 16 was amended by S.I. 2008/1042, 2008/1082, 2009/2608 and 2010/793.
 (c) S.I. 2009/2655.
 (d) S.I. 2006/216.

- “(a) in writing; or
- (b) by telephone—
 - (i) where the relevant authority has published a telephone number for that purpose or for the purposes of regulation 53 (time and manner in which claims are to be made) unless the authority determines that in any particular case or class of case notification may not be given by telephone; or
 - (ii) in any case or class of case where the relevant authority determines that notice may be given by telephone; or
- (c) by any other means which the relevant authority agrees to accept in any particular case.”.

(6) In regulation 61(2) (notification of decisions) after “notification of a decision may” insert “, within one month of the date of the notification of that decision (or, if the decision was notified before 1st November 2010, before 1st December 2010),”.

(7) In Schedule 1 (applicable amounts), in Part 2 (family premium) for paragraph 3(2)(a) substitute—

“(2) The amount specified in sub-paragraph (1) shall be increased by £10.50 where the claimant or the claimant’s partner is in receipt of child tax credit and the family element includes the amount in regulation 7(3)(a) of the Child Tax Credit Regulations 2002.”.

Amendment of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

6.—(1) The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(b) are amended as follows.

(2) In regulation 8(6) (date from which a decision superseding an earlier decision takes effect) for “regulation 68 of the Housing Benefit Regulations” substitute “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”.

(3) In regulation 10 (notice of a decision against which an appeal lies) in paragraph (1)(b) after “he may” insert “, 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),”.

Amendment of the Social Security (Notification of Change of Circumstances) Regulations 2001

7.—(1) Regulation 4 of the Social Security (Notification of Change of Circumstances) Regulations 2001(c) (change affecting housing benefit or council tax benefit) is amended as follows.

(2) For paragraph (1) substitute—

“(1) Subject to paragraphs (1A) to (1C), where the benefit affected by the change of circumstances is housing benefit or council tax benefit, notice must be given to the relevant authority at the designated office—

- (a) in writing; or
- (b) by telephone—
 - (i) where the relevant authority has published a telephone number for that purpose or for the purposes of making a claim unless the authority determines that in any particular case or class of case notification may not be given by telephone; or

(a) Paragraph 3 was amended by S.I. 2010/793.

(b) S.I. 2001/1002.

(c) S.I. 2001/3252. Regulation 4 was amended by S.I. 2006/217 and 2010/444.

- (ii) in any case or class of case where the relevant authority determines that notice may be given by telephone; or
 - (c) by any other means which the relevant authority agrees to accept in any particular case.”.
- (3) After paragraph (1B) insert—
- “(1C) Notice may be given to the appropriate DWP office by telephone where all the following conditions are met—
- (a) the claimant or the claimant’s partner is in receipt of income support or a jobseeker’s allowance;
 - (b) the change of circumstances is that the claimant or the claimant’s partner starts employment;
 - (c) as a result of the change, either entitlement to housing benefit or council tax benefit will end, or the amount of benefit will be reduced; and
 - (d) a telephone number has been provided for that purpose.”.
- (4) In paragraph (2) after “In this regulation” insert ““appropriate DWP office”,”.

Amendment of the Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007

8.—(1) The Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007^(a) are amended as follows.

- (2) In Part 1 of the Schedule (war disablement pensions), after paragraph 1(b)(ii) insert—
- “(iia) the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010^(b);”.
- (3) In Part 2 of the Schedule (war widow’s pensions), after paragraph 2(b)(ii) insert—
- “(iia) the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010;”.

Signed by authority of the Secretary of State for Work and Pensions.

Freud
Parliamentary Under-Secretary of State,
Department for Work and Pensions

6th October 2010

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make miscellaneous amendments to the:

- Housing Benefit Regulations 2006 (“the Housing Benefit Regulations”);
- Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (“the Housing Benefit (State Pension Credit) Regulations”);
- Council Tax Benefit Regulations 2006 (“the Council Tax Benefit Regulations”);
- Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (“the Council Tax Benefit (State Pension Credit) Regulations”);
- Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 (“the Decisions and Appeals Regulations”);
- Social Security (Notification of Change of Circumstances) Regulations 2001;
- Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007.

(a) S.I. 2007/1619.

(b) Royal Warrant made on 16th February 2010.

Regulations 2(2) and 3(2) amend the definition of “Housing Act functions” in the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations, respectively, to include a reference to current legislation.

Regulations 2(3) and 3(3) amend regulation 21(3) of the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations to clarify that children who are being fostered by a claimant are not treated as occupying the claimant’s dwelling.

Regulation 2(4) amends regulation 83 of the Housing Benefit Regulations to clarify that where a claimant requests backdating, whether at the time of claiming or later, there is a single award of benefit for the past period. Regulation 4(2) makes a similar amendment to the Council Tax Benefit Regulations.

Regulation 2(5) amends regulation 88 of the Housing Benefit Regulations to allow local authorities more easily to accept notifications of changes of circumstances by telephone. Regulations 3(5), 4(3) and 5(5) make similar amendments to the Housing Benefit (State Pension Credit) Regulations, the Council Tax Benefit Regulations and the Council Tax Benefit (State Pension Credit) Regulations. Regulation 7(2) makes parallel amendments to the Social Security (Notification of Change of Circumstances) Regulations 2001. Regulation 7(3) further amends those Regulations to allow a person in receipt of income support or a jobseeker’s allowance to notify the Department of Work and Pensions by telephone if the change of circumstances affecting their housing benefit or council tax benefit is the fact that they or their partner is starting employment. This brings those Regulations into line with provisions in the Housing Benefit Regulations, the Housing Benefit (State Pension Credit) Regulations, the Council Tax Benefit Regulations and the Council Tax Benefit (State Pension Credit) Regulations.

Regulation 2(6) amends regulation 90 of the Housing Benefit Regulations to provide for a one month time limit for requesting a written statement of reasons for a decision by a local authority. Regulations 3(6), 4(4), 5(6) and 6(3) make similar amendments to the Housing Benefit (State Pension Credit) Regulations, the Council Tax Benefit Regulations, the Council Tax Benefit (State Pension Credit) Regulations and Decisions and Appeals Regulations.

Regulation 2(7) amends regulation 96(2) of the Housing Benefit Regulations to remove the requirement that when local authorities make a first payment of benefit to the landlord they do so by sending the claimant an instrument payable to the landlord. The amendment will allow the local authority to send payment directly to the landlord. Regulation 3(7) makes a similar amendment to the Housing Benefit (State Pension Credit) Regulations.

Regulation 2(8)(a) amends paragraph 3 of Schedule 3 to the Housing Benefit Regulations so that the increased family premium that applies where the claimant or claimant’s partner is responsible for a child under the age of one will only apply where the claimant or claimant’s partner is in receipt of child tax credit with a higher family element. This is to allow the increased premium to be removed from the applicable amount if the higher family element in child tax credit is removed. Regulations 3(8), 4(5)(a) and 5(7) make similar amendments to the Housing Benefit (State Pension Credit) Regulations, the Council Tax Benefit Regulations and the Council Tax Benefit (State Pension Credit) Regulations.

Regulation 2(8)(b) removes unnecessary words from the table in paragraph 20(9) of Schedule 3 to the Housing Benefit Regulations. Regulation 4(5)(b) makes a similar amendment to the Council Tax Benefit Regulations.

Regulation 2(9) amends paragraph 17(3) of Schedule 4 to the Housing Benefit Regulations to correct an erroneous cross-reference. Regulation 4(6) makes a similar amendment to the Council Tax Benefit Regulations.

Regulation 2(10) amends paragraph 25 of Schedule 5 to the Housing Benefit Regulations to allow for a full disregard of income from special guardianship payments. Regulation 4(7) makes a similar amendment to the Council Tax Benefit Regulations, and also corrects a numbering error.

Regulation 3(4) amends regulation 64 of the Housing Benefit (State Pension Credit) Regulations to provide that in future, where a person claims state pension credit at the same time as housing

benefit, the housing benefit claim will not be backdated for more than 3 months before the date the claim for state pension credit was made or treated as made. Regulation 5(3) makes a similar amendment to the Council Tax Benefit (State Pension Credit) Regulations.

Regulation 5(2) and regulation 6(2) make amendments to update legislative references. Regulation 5(4) omits regulation 56 of the Council Tax Benefit (State Pension Credit) Regulations, which duplicates regulation 53(1ZA).

Regulation 8 amends the Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007. The Schedule to these Regulations lists the instruments which provide for the war widows' and war disablement pensions in respect of which local authorities may modify the housing benefit and council tax benefit schemes to allow a greater disregard. The amendment adds the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010 to those lists.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sector.

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STATUTORY INSTRUMENTS

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The Housing Benefit and Council Tax Benefit (Miscellaneous
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£5.75