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STATUTORY INSTRUMENTS

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**2011 No. 2943**

**SOCIAL SECURITY**

**The Social Security (Electronic  
Communications) (No. 2) Order 2011**

*Made* - - - - *6th December 2011*  
*Laid before Parliament* *12th December 2011*  
*Coming into force* - - *23rd January 2012*

The Secretary of State for Work and Pensions, considering that the authorisation of the use of electronic communications by this Order for any purpose is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases, makes the following Order in exercise of the powers conferred by sections 8 and 9 of the Electronic Communications Act 2000<sup>(1)</sup>.

**Citation and commencement**

1. This Order may be cited as the Social Security (Electronic Communications) (No.2) Order 2011 and comes into force on 23rd January 2012.

**Amendment of the Social Security (Claims and Payments) Regulations 1987**

2.—(1) The Social Security (Claims and Payments) Regulations 1987<sup>(2)</sup> are amended as follows.

(2) In regulation 32ZA(2) (information given electronically)<sup>(3)</sup>—

(a) after sub-paragraph (d), insert—

“(da) incapacity benefit;”;

(b) at the end, insert—

“(g) retirement pension;

(h) state pension credit.”.

(3) In paragraph 2(1) (conditions for the use of electronic communication) of Schedule 9ZC (electronic communication)<sup>(4)</sup>, for “an employment and support allowance and income support”

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(1) 2000 c.7. The power in section 8 is vested in “the appropriate Minister”. By virtue of section 9(1)(a), the Secretary of State is “the appropriate Minister” in relation to any matter with which a department of the Secretary of State is concerned.

(2) S.I. 1987/1968.

(3) Regulation 32ZA was inserted by S.I. 2003/2800. Paragraph (2) was inserted by S.I. 2011/1498.

(4) Schedule 9ZC was inserted by S.I. 2003/2800. Paragraph 2 was substituted by S.I. 2011/1498.

substitute “an employment and support allowance, incapacity benefit, income support and state pension credit”.

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

3.—(1) The Social Security (Notification of Change of Circumstances) Regulations 2001<sup>(5)</sup> are amended as follows.

(2) In regulation 4 (change affecting housing benefit or council tax benefit)<sup>(6)</sup>—

- (a) in paragraph (1), for “(1C)” substitute, “(1D)”;
- (b) after paragraph (1C)<sup>(7)</sup>, insert—

“(1D) Where—

- (a) the change of circumstances required to be notified is a death; and
- (b) the authority administering the claimant’s housing benefit or council tax benefit agrees with the Secretary of State that notifications may be made in accordance with paragraph (1A),

notice in writing may be given or sent to the Secretary of State by an electronic communication in accordance with the provisions set out in Schedule 9ZC to the Social Security (Claims and Payments) Regulations 1987 (electronic communication).

(1E) The provisions set out in that Schedule shall apply to such a notice as they apply for the purposes of regulation 32ZA of the Social Security (Claims and Payments) Regulations 1987 (information given electronically).”.

(3) In regulation 5(1ZB) (change affecting other benefit payment or advantage)<sup>(8)</sup>—

- (a) after sub-paragraph (d), insert—
  - “(da) incapacity benefit;”;
- (b) at the end, insert—
  - “(f) retirement pension;
  - (g) state pension credit.”.

### **Amendment of the Council Tax Benefit Regulations 2006**

4.—(1) The Council Tax Benefit Regulations 2006<sup>(9)</sup> are amended as follows.

(2) The existing regulation 74A (notice of changes of circumstances given electronically)<sup>(10)</sup> is re-numbered regulation 74A(1).

(3) After that provision (as re-numbered), insert—

“(2) Where—

- (a) the change of circumstances required to be notified is a death; and
- (b) the authority administering the claimant’s council tax benefit agrees with the Secretary of State that notifications may be made in accordance with regulation 74ZA(1) (alternative means of notifying changes of circumstances),

<sup>(5)</sup> S.I. 2001/3252.

<sup>(6)</sup> Regulation 4 was amended by S.I. 2010/444 and S.I. 2010/2449.

<sup>(7)</sup> Paragraph (1C) was inserted by S.I. 2010/2449.

<sup>(8)</sup> Regulation 5 was amended by S.I. 2002/1789, 2003/492, 2003/2800, 2003/3209, 2010/444 and S.I. 2011/1498.

<sup>(9)</sup> S.I. 2006/215.

<sup>(10)</sup> Regulation 74A was inserted by S.I. 2006/2968.

a person may give notice of the change to the Secretary of State by means of an electronic communication in accordance with the provisions set out in Schedule 9ZC to the Social Security (Claims and Payments) Regulations 1987 (electronic communication).

(3) The provisions set out in that Schedule shall apply for the purposes of paragraph (2) as they apply for the purposes of regulation 32ZA of the Social Security (Claims and Payments) Regulations 1987 (information given electronically).

(4) The Secretary of State must forward information received in accordance with paragraph (2) to the authority administering the claimant's council tax benefit.”.

### **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(11) are amended as follows.

(2) The existing regulation 59A (notice of changes of circumstances given electronically)(12) is renumbered regulation 59A(1).

(3) After that provision (as re-numbered), insert—

“(2) Where—

(a) the change of circumstances required to be notified is a death; and

(b) the authority administering the claimant's council tax benefit agrees with the Secretary of State that notifications may be made in accordance with regulation 59ZA(1) (alternative means of notifying changes of circumstances),

a person may give notice of the change to the Secretary of State by means of an electronic communication in accordance with the provisions set out in Schedule 9ZC to the Social Security (Claims and Payments) Regulations 1987 (electronic communication).

(3) The provisions set out in that Schedule shall apply for the purposes of paragraph (2) as they apply for the purposes of regulation 32ZA of the Social Security (Claims and Payments) Regulations 1987 (information given electronically).

(4) The Secretary of State must forward information received in accordance with paragraph (2) to the authority administering the claimant's council tax benefit.”.

### **Amendment of the Housing Benefit Regulations 2006**

6.—(1) The Housing Benefit Regulations 2006(13) are amended as follows.

(2) The existing regulation 88A (notice of changes of circumstances given electronically)(14) is re-numbered regulation 88A(1).

(3) After that provision (as re-numbered), insert—

“(2) Where—

(a) the change of circumstances required to be notified is a death; and

(b) the authority administering the claimant's housing benefit agrees with the Secretary of State that notifications may be made in accordance with regulation 88ZA(1) (alternative means of notifying changes of circumstances),

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(11) [S.I. 2006/216](#).

(12) Regulation 59A was inserted by [S.I. 2006/2968](#).

(13) [S.I. 2006/213](#).

(14) Regulation 88A was inserted by [S.I. 2006/2968](#).

a person may give notice of the change to the Secretary of State by means of an electronic communication in accordance with the provisions set out in Schedule 9ZC to the Social Security (Claims and Payments) Regulations 1987 (electronic communication).

(3) The provisions set out in that Schedule shall apply for the purposes of paragraph (2) as they apply for the purposes of regulation 32ZA of the Social Security (Claims and Payments) Regulations 1987 (information given electronically).

(4) The Secretary of State must forward information received in accordance with paragraph (2) to the authority administering the claimant's housing benefit.”

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

7.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006<sup>(15)</sup> are amended as follows.

(2) The existing regulation 69A (notice of changes of circumstances given electronically)<sup>(16)</sup> is re-numbered regulation 69A(1).

(3) After that provision (as re-numbered), insert—

“(2) Where—

(a) the change of circumstances required to be notified is a death; and

(b) the authority administering the claimant's housing benefit agrees with the Secretary of State that notifications may be made in accordance with regulation 69ZA(1) (alternative means of notifying changes of circumstances),

a person may give notice of the change to the Secretary of State by means of an electronic communication in accordance with the provisions set out in Schedule 9ZC to the Social Security (Claims and Payments) Regulations 1987 (electronic communication).

(3) The provisions set out in that Schedule shall apply for the purposes of paragraph (2) as they apply for the purposes of regulation 32ZA of the Social Security (Claims and Payments) Regulations 1987 (information given electronically).

(4) The Secretary of State must forward information received in accordance with paragraph (2) to the authority administering the claimant's housing benefit.”

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

6th December 2011

*Chris Grayling*  
Minister of State  
Department for Work and Pensions

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<sup>(15)</sup> S.I. 2006/214.

<sup>(16)</sup> Regulation 69A was inserted by S.I. 2006/2968.

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## EXPLANATORY NOTE

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

This Order amends regulations so as to facilitate the use of electronic communications and electronic storage in relation to awards of housing and council tax benefit and certain social security benefits.

Article 2 extends the scope of regulation 32ZA of, and Schedule 9ZC to, the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968) (“the Claims and Payments Regulations”) to enable a person to give any certificate, notice, information or evidence, including notice of a change of circumstances, in relation to incapacity benefit, a retirement pension or state pension credit by means of an electronic communication, subject to the provisions set out in that Schedule.

Schedule 9ZC sets out the conditions to be satisfied where information, including a change of circumstances, is notified by means of an electronic communication and makes other provision which applies to electronic communications. Those conditions, which are framed with reference to directions given by the Secretary of State, relate to the circumstances in which a person is permitted to use an electronic communication and to the method and form of the communication.

Article 3 amends the Social Security (Notification of Change of Circumstances) Regulations 2001 (S.I. 2001/3252) to allow for the use of electronic communications in connection with awards of housing benefit, council tax benefit, incapacity benefit, retirement pension and state pension credit. Those Regulations prescribe the person to whom and manner in which a change of circumstances must be notified for the purposes of sections 111A and 112 of the Social Security Administration Act 1992 (offences relating to failure to notify a change of circumstances).

Article 4 extends the circumstances in which electronic communications may be used in connection with awards of council tax benefit where the authority administering the claimant’s council tax benefit agrees that births or deaths may be notified to the Secretary of State.

It amends regulation 74A of the Council Tax Benefit Regulations 2006 (S.I. 2006/215) so that, where the authority administering the claimant’s council tax benefit agrees that births or deaths may be notified to the Secretary of State, a person may also report a death to the Secretary of State by means of an electronic communication, subject to the provisions set out in Schedule 9ZC to the Claims and Payments Regulations. Article 5 amends the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/ 216) to similar effect and articles 6 and 7 make similar provision to, respectively, articles 4 and 5 in the case of housing benefit legislation.

An electronic copy of the directions referred to in Schedule 9ZC to the Claims and Payments Regulations is available on the Department for Work and Pensions publicly accessible website at: <http://www.dwp.gov.uk/publications/specialist%2Dguides/> and a hard copy may be obtained from Tell Us Once Delivery Partnerships, Level 3, The Adelphi, 1-11 John Adam Street, London, WC2N 6HT.

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