
STATUTORY INSTRUMENTS

2003 No. 1338

**The Housing Benefit and Council Tax Benefit
(State Pension Credit) (Abolition of Benefit
Periods) Amendment Regulations 2003**

PART 4

Consequential and Transitional Provisions

Application of this Part

7.—(1) This Part shall have effect, except where paragraph (2) applies, in relation to a person who has attained the qualifying age for state pension credit.

(2) This paragraph applies where the claimant or, if the claimant has a partner, his partner, is a person on income support or on an income-based jobseeker's allowance within the meaning of the Housing Benefit Regulations or, as the case may be, the Council Tax Benefit Regulations.

Amendment of regulation 2 of the Housing Benefit Regulations and regulation 2 of the Council Tax Benefit Regulations

8. In regulation 2(1) of the Housing Benefit Regulations (interpretation) and regulation 2(1) of the Council Tax Benefit Regulations (interpretation)-

- (a) the definition of "benefit period" shall be omitted;
- (b) at the appropriate place, insert—

““the qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002)—

- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;”.

Amendment of regulation 7 of the Housing Benefit Regulations

9. In regulation 7(10) of the Housing Benefit Regulations (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) the words from "except" to the end of the paragraph shall be omitted.

Amendment of regulation 11 of the Housing Benefit Regulations

10. In regulation 11(6) of the Housing Benefit Regulations (maximum rent)—

- (a) in sub-paragraph (b) for the words "benefit period" there shall be substituted "award of housing benefit";
- (b) for the words after sub-paragraph (b) there shall be substituted—

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“then—

- (i) the maximum rent shall not be reduced, where the sum is not less than the maximum rent, during a period ending on the date that the authority next applies to the rent officer for a determination in accordance with regulation 12A (requirement to refer to rent officers); and
- (ii) the maximum rent shall be reduced to an amount equal to that sum, where that sum is less than the maximum rent during a period ending on the date that the authority next applies to the rent officer for a determination in accordance with regulation 12A (requirement to refer to rent officers).”.

Amendment of regulation 12A of the Housing Benefit Regulations

11.—(1) Regulation 12A (requirement to refer to rent officers) shall be amended in accordance with the following paragraphs.

(2) In paragraph (1)—

- (a) the words “it has received” shall be omitted;
- (b) at the beginning of sub-paragraphs (a), (aa), (b) and (c) the words “ it has received ” shall be inserted;
- (c) after sub-paragraph (c), there shall be inserted the following sub-paragraphs—
 - “(d) 52 weeks have elapsed since it last made an application under sub-paragraph (a), (aa) or (b) above in relation to the claim or award in question; or
 - (e) 52 weeks have elapsed since—
 - (i) an application was made under sub-paragraph (d) above; or
 - (ii) an application was made under this sub-paragraph,whichever last occurred.”.

(3) In paragraph (3)—

- (a) the words “appropriate local authority receiving” shall be omitted;
- (b) at the beginning of sub-paragraphs (a), (aa) and (b) the words “ relevant authority receiving ” shall be inserted;
- (c) after sub-paragraph (b), there shall be inserted—

“or

- (c) day on which the period mentioned in paragraph (1)(d) or (e) elapsed.”.

Extended payments

12.—(1) In regulation 62A of the Housing Benefit Regulations (extended payments) after paragraph (5), there shall be inserted—

“(5A) Where a person attains the qualifying age for state pension credit during the period of an extended payment made to him or his partner under this regulation, paragraph (5)(b) shall have effect as if—

- (a) after the word “beneficiary” there were inserted the words “or his partner” and
- (b) for the words from “deemed to be” to the end of that sub-paragraph there were substituted the words “treated as having been made in respect of a period beginning immediately after the end of the benefit period.”.

(2) In regulation 53A of the Council Tax Benefit Regulations (extended payments) after paragraph (5), there shall be inserted—

“(5A) Where a person attains the qualifying age for state pension credit during the period of an extended payment made to him or his partner under this regulation, paragraph (5)(b) shall have effect as if—

- (a) after the word “beneficiary” there were inserted the words “or his partner”; and
- (b) for the words from “deemed to be” to the end of that sub-paragraph there were substituted the words “treated as having been made in respect of a period beginning immediately after the end of the benefit period.””

Change of circumstances

13.—(1) In regulation 68 of the Housing Benefit Regulations (date on which change of circumstances is to take effect)—

- (a) in paragraph (1) for the words “regulation 8(3) (eligible housing costs) or regulation 26” there shall be substituted “ regulation 29 ”;
- (b) at the beginning of paragraphs (2), (3) and (4) there shall be inserted the words “ Subject to paragraphs (13) and (14), ”;
- (c) after paragraph (12) the following paragraphs shall be added—

“(13) Paragraph (14) applies where—

- (a) a change of circumstances would, but for that paragraph, take effect in accordance with paragraph (2), (3)(a)(i) or (b) or (4) on a day that is not the first day of a benefit week; and
- (b) the effect of that change of circumstances is to end entitlement to housing benefit.

(14) In a case to which this paragraph applies, the change of circumstances shall take effect from the first day of the benefit week following the day on which the change of circumstances actually occurred.”.

(2) In regulation 59(1) of the Council Tax Benefit Regulations (date on which change of circumstances is to take effect) for the words “regulation 18” there shall be substituted “ regulation 21 ”.

Time claims are made or treated as made

14.—(1) Subject to regulation 20, in the Housing Benefit Regulations—

- (a) in regulation 65(1), the words “regulation 72(12) to (14) (renewal claims) and” shall be omitted; and
- (b) in regulation 72, paragraphs (12) to (14A) (time and manner in which claims are to be made) shall be omitted.

(2) Subject to regulation 20, in the Council Tax Benefit Regulations—

- (a) in regulation 56(1) (date on which entitlement is to begin) the words “and to regulation 62(13) to (15) (renewal claims)” shall be omitted; and
- (b) in regulation 62, paragraphs (13) to (15A) (time and manner in which claims are to be made) shall be omitted.

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Amendment of regulation 76 of the Housing Benefit Regulations and regulation 66 of the Council Tax Benefit Regulations

15. Paragraph (2)(d) of regulation 76 of the Housing Benefit Regulations and paragraph (2)(d) of regulation 66 of the Council Tax Benefit Regulations (who is to make a decision) shall be omitted.

Amendment of regulation 104 of the Housing Benefit Regulations and regulation 90 of the Council Tax Benefit Regulations

16. Paragraph (2) of regulation 104 of the Housing Benefit Regulations and paragraph (2) of regulation 90 of the Council Tax Benefit Regulations (sums to be deducted in calculating recoverable excess benefit) shall be omitted.

Amendment of Schedule 1A to the Housing Benefit Regulations

17.—(1) Schedule 1A to the Housing Benefit Regulations (excluded tenancies) shall be amended in accordance with the following paragraphs.

(2) For paragraph 2(2) there shall be substituted—

“(2) For the purposes of any claim, notification, request or application under regulation 12A(1) (“the later application”), a tenancy shall not be an excluded tenancy by virtue of sub-paragraph (1) by reference to a rent officer’s determination made in consequence of an earlier claim, notification, request or application (“the earlier application”) where—

- (a) the earlier and later applications were made in respect of the same claimant or different claimants; and
- (b) the earlier application was made more than 52 weeks before the later application was made.”.

(3) Paragraphs 2(2A) and (3)(d) and 4 shall be omitted.

Amendment of Schedule 6 to the Housing Benefit Regulations and Schedule 6 to the Council Tax Benefit Regulations

18. Paragraph 9(h) of Schedule 6 to the Housing Benefit Regulations and paragraph 9(e) of Schedule 6 to the Council Tax Benefit Regulations (awards where income support or state pension credit is payable) shall be omitted.

Minor and consequential amendments

19.—(1) In the provisions specified in paragraph (2), for the words “benefit period” wherever they occur, there shall be substituted the words “award of housing benefit”, preceded, where appropriate, by “an” instead of “a”.

(2) The provisions referred to in paragraph (1) are the following regulations in the Housing Benefit Regulations—

- (a) regulation 11(9) and (10) (maximum rent);
- (b) regulation 70(2) (rent free periods); and
- (c) regulation 75(1) (duty to notify change of circumstances).

(3) In regulation 70(2)(a) of the Housing Benefit Regulations (rent free periods) for the words “that period” in both places where they occur, there shall be substituted the words “that award”.

(4) In regulation 65(1) of the Council Tax Benefit Regulations (duty to notify a change of circumstances) for the words “benefit period” there shall be substituted the words “award of council tax benefit”.

Transitional provision

20.—(1) Paragraphs (2) and (3) apply in the case of a claimant whose, or whose partner's, benefit period ends before 6th October 2003.

(2) Where paragraph (1) applies, regulation 72(13) and (14) of the Housing Benefit Regulations and regulation 62(14) and (15) of the Council Tax Benefit Regulations shall continue to have effect until 3rd November 2003.

(3) Where paragraph (1) applies and either—

(a) a claimant makes a claim for a further grant of—

(i) housing benefit in accordance with regulation 72(13) of the Housing Benefit Regulations, or

(ii) council tax benefit in accordance with regulation 62(14) of the Council Tax Benefit Regulations,

after 6th October 2003 but no later than 4 weeks after the end of the benefit period; or

(b) a relevant authority invites that claimant to make a claim for a further grant of—

(i) housing benefit in accordance with regulation 72(14) of the Housing Benefit Regulations, or

(ii) council tax benefit in accordance with regulation 62(15) of the Council Tax Benefit Regulations,

and following that invitation, a claim is received from that claimant after 6th October 2003 but no later than 4 weeks after the end of the benefit period,

that claim shall be treated as having been made in respect of the period beginning immediately after the end of the benefit period.

(4) Paragraphs (5) and (6) shall apply in the case of a claimant—

(a) whose, or whose partner's, benefit period ends before the claimant attains the qualifying age for state pension credit; and

(b) who attains the qualifying age for state pension credit no later than 4 weeks after the end of the benefit period.

(5) Where paragraph (4) applies, regulation 72(13) and (14) of the Housing Benefit Regulations and regulation 62(14) and (15) of the Council Tax Benefit Regulations shall continue to have effect until 4 weeks after the day on which the benefit period ends.

(6) Where paragraph (4) applies and either—

(a) a claimant makes a claim for a further grant of—

(i) housing benefit in accordance with regulation 72(13) of the Housing Benefit Regulations, or

(ii) council tax benefit in accordance with regulation 62(14) of the Council Tax Benefit Regulations,

after he has attained the qualifying age for state pension credit but no later than 4 weeks after the end of the benefit period; or

(b) a relevant authority invites that claimant to make a claim for a further grant of—

(i) housing benefit in accordance with regulation 72(14) of the Housing Benefit Regulations, or

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(ii) council tax benefit in accordance with regulation 62(15) of the Council Tax Benefit Regulations,

and, following that invitation, a claim is received from that claimant after he has attained the qualifying age for state pension credit but no later than 4 weeks after the end of the benefit period,

that claim shall be treated as having been made in respect of the period beginning immediately after the end of the benefit period.

Transitional provision for rent officer referrals

21.—(1) Paragraph (2) applies where a claimant attains or has attained the qualifying age for state pension credit on or before 6th October 2003.

(2) If, on 6th October 2003, more than 52 weeks have elapsed since the relevant authority last made an application in relation to that claimant's, or his partner's, claim for, or award of, housing benefit for a determination in accordance with regulation 12A(1) of the Housing Benefit Regulations (requirement to refer to rent officers), the relevant authority shall apply to a rent officer for a determination to be made in pursuance of the Housing Act functions as soon as is practicable after 6th October 2003.

(3) Paragraph (4) applies where a claimant attains the qualifying age for state pension credit on a date (“the qualifying date”) after 6th October 2003.

(4) If, on the qualifying date, more than 52 weeks have elapsed since the relevant authority last made an application in relation to that claimant's, or his partner's, award of housing benefit for a determination in accordance with regulation 12A(1) of the Housing Benefit Regulations (requirement to refer to rent officers), the relevant authority shall apply to a rent officer for a determination to be made in pursuance of the Housing Act functions as soon as is practicable after the qualifying date.

(5) Any application made under paragraph (2) or (4) above shall be subject to regulation 12A(1A) and (7A) of the Housing Benefit Regulations.

(6) An appropriate relevant authority may make a decision under paragraph 4 of Schedule 7 to the Act in a case to which paragraphs (2) or (4) apply.

(7) Where an appropriate relevant authority makes a decision under paragraph (6) which adopts the determination made in consequence of the application made under paragraph (2) or (4) the decision shall take effect—

(a) in a case to which paragraph (2) applies, on 6th October 2003; and

(b) subject to paragraph (8), in a case to which paragraph (4) applies, on the qualifying date.

(8) Where an appropriate relevant authority makes a decision under paragraph (6) which adopts the determination made in consequence of the application made under paragraph (4)—

(a) in a case where entitlement to housing benefit ceases; and

(b) where the qualifying date is not the first day of the benefit week,

the decision shall take effect on the first day of the benefit week following the benefit week in which the qualifying date falls.

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