
STATUTORY INSTRUMENTS

2003 No. 2275

SOCIAL SECURITY

The Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2003

<i>Made</i>	- - - -	<i>7th September 2003</i>
<i>Laid before Parliament</i>		<i>12th September 2003</i>
<i>Coming into force</i>		
<i>for the purposes of</i>		
<i>regulation 2</i>		<i>5th October 2003</i>
<i>for all other purposes</i>		<i>6th October 2003</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by the provisions specified in the Schedule to these Regulations and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of the authorities concerned (1) and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(2), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2003 and shall come into force—

- (a) for the purposes of regulation 2, on 5th October 2003; and
- (b) for all other purposes, on 6th October 2003.

(2) In these Regulations—

“the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992(3);

“the Decisions and Appeals Regulations” means the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(4);

(1) See section 176(1) of the Social Security Administration Act 1992 (c. 5).
(2) See sections 170 and 173(1)(b) of the Social Security Administration Act 1992.
(3) S.I. 1992/1814.
(4) S.I. 2001/1002.

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987⁽⁵⁾; and

“the State Pension Credit Regulations” means the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003⁽⁶⁾.

Amendment of the State Pension Credit Regulations

2.—(1) The State Pension Credit Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 3(1) (housing benefit—interpretation), after sub-paragraph (c), insert—

“(cc) after the definition of “disability living allowance”, insert—

““dwelling occupied as the home” means the dwelling, together with any garage, garden and outbuildings, normally occupied by the claimant as his home, including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated;”.”

(3) After regulation 3, insert the following regulation—

“Modification of regulation 4

3A. After regulation 4(5A) (housing benefit—remunerative work)⁽⁷⁾ insert—

“(5B) Paragraph (5) shall not apply for the purposes of regulation 27 (treatment of child care charges) or paragraph 9 of Schedule 3A (sums disregarded from earnings).”.”

(4) In regulation 6 (housing benefit—applicable amounts)—

(a) in paragraph (1), in paragraph (3) of the substituted regulation 16⁽⁸⁾—

(i) in sub-paragraph (a) after “partner” insert “and is not a lone parent”; and

(ii) after that sub-paragraph insert the following sub-paragraph—

“(aa) is a lone parent, the applicable amount shall be an amount equal to the standard reduction, increased by such of the amounts specified in sub-paragraphs (b) to (e) of paragraph (1) as apply in his case;” and

(b) in paragraph (2)—

(i) in paragraph 6(2)(b)(ii) of the new Schedule 2A, for the words from “one” to “marriage are” substitute “, each other member of that marriage is”; and

(ii) in paragraph 8 of that new Schedule, insert at the end of sub-paragraph (b)—

“; or

(c) is a child or a young person in respect of whom section 145A of the Contributions and Benefits Act⁽⁹⁾ applies for the purposes of entitlement to child benefit, but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant’s applicable amount immediately before the death of that child.”.

(5) In regulation 8 (housing benefit—income and capital)—

(5) [S.I. 1987/1971](#).

(6) [S.I. 2003/325](#).

(7) Regulation 4(5) was amended by [S.I. 1996/1510](#), and paragraph (5A) was inserted by [S.I. 1999/3156](#).

(8) The relevant amending instrument is [S.I. 2003/1195](#).

(9) See the Social Security Contributions and Benefits Act 1992 (c. 4); section 145A was inserted by section 55 of the Tax Credits Act 2002 (c. 21).

- (a) in the substituted regulation 23(4)(b), omit head (iv);
 - (b) in the substituted regulation 25(1) (meaning of “income”)—
 - (i) in sub-paragraph (g) after “under” insert “Part I of”;
 - (ii) at the end of sub-paragraph (q) omit “and”;
 - (iii) after sub-paragraph (r) insert—
 - “(s) any income in lieu of that specified in sub-paragraphs (a) to (p); and
 - (t) any payment of rent made to a claimant who—
 - (i) owns the freehold or leasehold interest in any property or is a tenant of any property;
 - (ii) occupies part of the property; and
 - (iii) has an agreement with another person allowing that person to occupy that property on payment of rent.”;
 - (c) in the substituted regulation 27(11) (treatment of child care charges)—
 - (i) for “woman on maternity leave” substitute “person on maternity leave, paternity leave or adoption leave”;
 - (ii) in sub-paragraph (a) after “maternity leave” insert “, paternity leave or adoption leave”;
 - (iii) in sub-paragraph (c) before “or maternity”, insert “, statutory paternity pay by virtue of section 171ZA or 171ZB of that Act(10), statutory adoption pay by virtue of section 171ZL of that Act(11)”;
 - (d) in the substituted regulation 27(12)—
 - (i) for “woman’s maternity leave” substitute “person’s maternity leave, paternity leave or adoption leave”;
 - (ii) in sub-paragraphs (b) and (c) for “or statutory maternity pay” substitute “, statutory maternity pay, statutory paternity pay or statutory adoption pay”;
 - (e) in the substituted regulation 27(14)—
 - (i) for “woman on maternity leave” substitute “person on maternity leave, paternity leave or adoption leave”;
 - (ii) for “the maternity leave” substitute “such leave”;
 - (f) in the substituted regulation 30(1) (earnings of employed earners)—
 - (i) in sub-paragraph (i) for “Part 12ZA” substitute “section 171ZA or 171ZB”;
 - (ii) in sub-paragraph (j) for “Part 12ZB” substitute “section 171ZL”;
 - (g) in the substituted regulation 31(2)(d) (calculation of net earnings of employed earners) for “or statutory maternity pay” substitute “, statutory maternity pay, statutory paternity pay or statutory adoption pay”;
 - (h) in the substituted regulation 31(5)(a) omit “, 257A(1)”;
 - (i) in the substituted regulation 35(1) (deduction of tax and contributions of self-employed earners) omit “, 257A(1)”.
- (6) Omit regulation 11 (housing benefit—non-dependant deductions).
- (7) After regulation 13 (council tax benefit—interpretation), insert the following regulation—

(10) Sections 171ZA and 171ZB were inserted into the Social Security Contributions and Benefits Act 1992 by section 2 of the Employment Act 2002 (c. 22).

(11) Section 171ZL was inserted by section 4 of the Employment Act 2002.

“Modification of regulation 4

13A. After regulation 4(5A) (council tax benefit—remunerative work) insert—

“(5B) Paragraph (5) shall not apply for the purposes of regulation 19 (treatment of child care charges) or paragraph 9 of Schedule 3A (sums disregarded from earnings).”

(8) In regulation 15 (council tax benefit—applicable amounts)—

(a) in paragraph (1), in paragraph (3) of the substituted regulation 8(12)—

(i) in sub-paragraph (a) after “partner” insert “and is not a lone parent”, and

(ii) after that sub-paragraph insert the following sub-paragraph—

“(aa) is a lone parent, the applicable amount shall be an amount equal to the standard reduction, increased by such of the amounts specified in sub-paragraphs (b) to (e) of paragraph (1) as apply in his case;”;

(b) in paragraph (2)—

(i) in paragraph 6(2)(b)(ii) of the new Schedule 1A, for the words from “one” to “marriage are” substitute “, each other member of that marriage is”; and

(ii) in paragraph 8 of that new Schedule, insert at the end of sub-paragraph (b)—

“; or

(c) is a child or a young person in respect of whom section 145A of the Contributions and Benefits Act 1992 applies for the purposes of entitlement to child benefit, but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant’s applicable amount immediately before the death of that child.”.

(9) In regulation 17 (council tax benefit—income and capital)—

(a) in the substituted regulation 15(4)(b) omit head (iv);

(b) in the substituted regulation 17(1) (meaning of “income”)—

(i) in sub-paragraph (g), after “under” insert “Part I of”;

(ii) at the end of sub-paragraph (q) omit “and”;

(iii) after sub-paragraph (r) insert—

“(s) any income in lieu of that specified in sub-paragraphs (a) to (p); and

(t) any payment of rent made to a claimant who—

(i) owns the freehold or leasehold interest in any property or is a tenant of any property;

(ii) occupies part of the property; and

(iii) has an agreement with another person allowing that person to occupy that property on payment of rent.”;

(c) in the substituted regulation 19(11) (treatment of child care charges)—

(i) for “woman on maternity leave” substitute “person on maternity leave, paternity leave or adoption leave”;

(ii) in sub-paragraph (a) after “maternity leave” insert “, paternity leave or adoption leave”;

- (iii) in sub-paragraph (c) before “or maternity” insert “, statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, statutory adoption pay by virtue of section 171ZL of that Act”;
 - (d) in the substituted regulation 19(12)—
 - (i) for “woman’s maternity leave” substitute “person’s maternity leave, paternity leave or adoption leave”;
 - (ii) in sub-paragraphs (b) and (c) for “or statutory maternity pay” substitute “, statutory maternity pay, statutory paternity pay or statutory adoption pay”;
 - (e) in the substituted regulation 19(14)—
 - (i) for “woman on maternity leave” substitute “person on maternity leave, paternity leave or adoption leave”;
 - (ii) for “the maternity leave” substitute “such leave”;
 - (f) in the substituted regulation 22(1) (earnings of employed earners)—
 - (i) in sub-paragraph (i) for “Part 12ZA” substitute “section 171ZA or 171ZB”;
 - (ii) in sub-paragraph (j) for “Part 12ZB” substitute “section 171ZL”;
 - (g) in the substituted regulation 23(2)(d) (calculation of net earnings of employed earners) for “or statutory maternity pay” substitute “, statutory maternity pay, statutory paternity pay or statutory adoption pay”;
 - (h) in the substituted regulation 23(5)(a) omit “, 257A(1)”;
 - (i) in the substituted regulation 27(1) (deduction of tax and contributions of self-employed earners) omit “, 257A(1)”.
- (10) Omit regulation 19 (council tax benefit—non-dependant deductions).
- (11) In regulation 20 (council tax benefit—continuing payments), in paragraph (5) of the new regulation 53B, for the words “last calculated, a change” substitute “last calculated—
- (a) the claimant’s council tax liability has increased; or
 - (b) a change”.
- (12) In regulation 22 (date on which change of circumstances takes effect)—
- (a) in paragraph (2)(b) (which inserts new paragraphs in regulation 68 of the Housing Benefit Regulations)—
 - (i) in new paragraph (9)(b), for the words from “since” to “anniversary date” substitute “either”;
 - (ii) in new paragraph (10), for the words from “the next anniversary date” to the end substitute “the effective date”;
 - (iii) for new paragraph (11) substitute—
 - “(11) In paragraph (10) but subject to paragraph (12), “the effective date” means—
 - (a) where more than one change of a kind referred to in paragraph (9)(b) relating to the same non-dependant has occurred since—
 - (i) the date on which the claimant’s entitlement to housing benefit first began; or
 - (ii) the date which was the last effective date in respect of such a change;

- whichever is the later, the date which falls 26 weeks after the date on which the first such change occurred;
- (b) where sub-paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in paragraph (9)(b) occurred.”; and
- (iv) in new paragraph (12)—
- (aa) for “sub-paragraphs (a) to (c) of sub-paragraph” substitute “paragraph”;
- (bb) for “anniversary date” substitute “effective date”; and
- (cc) for “those paragraphs” substitute “that paragraph”;
- (b) in paragraph (3) (which inserts a new regulation 68B in the Housing Benefit Regulations), in the new regulation 68B—
- (i) in paragraph (1) for “(2) to (8)” substitute “(2) to (4)”;
- (ii) in paragraph (2)—
- (aa) for the words “results in an increase”, substitute—
- “results in—
- (a) an increase”; and
- (bb) after “increased rate” insert—
- “; or
- (b) a decrease in the rate at which housing benefit is payable to him, the change shall take effect from the first day of the benefit week next following the date on which—
- (i) the local authority receives notification from the Secretary of State of the increase in the amount of state pension credit; or
- (ii) state pension credit is increased,
- whichever is the later.”;
- (iii) in paragraph (3)(b), for the words from “on which” to the end, substitute—
- “on which—
- (i) the local authority receives notification from the Secretary of State of the reduction in the amount of state pension credit; or
- (ii) state pension credit is reduced,
- whichever is the later.”;
- (iv) in paragraphs (5) and (6)—
- (aa) for “the change of circumstance is” substitute “a change of circumstances occurs in”; and
- (bb) for “has resulted” substitute “would result”; and
- (v) in paragraph (5), for the words from “on which” to the end, substitute—
- “on which—
- (a) the local authority receives notification from the Secretary of State of the award of state pension credit; or
- (b) entitlement to state pension credit begins,
- whichever is the later.”;

- (c) in paragraph (5)(b) (which inserts new paragraphs in regulation 59 of the Council Tax Benefit Regulations)—
 - (i) in new paragraph (10)(b), for the words from “since” to “anniversary date” substitute “either”;
 - (ii) in new paragraph (11), for the words from “the next anniversary date” to the end substitute “the effective date”;
 - (iii) for new paragraph (12) substitute—
 - “(12) In paragraph (11) but subject to paragraph (13), “the effective date” means—
 - (a) where more than one change of a kind referred to in paragraph (10)(b) relating to the same non-dependant has occurred since—
 - (i) the date on which the claimant’s entitlement to council tax benefit first began; or
 - (ii) the date which was the last effective date in respect of such a change, whichever is the later, the date which falls 26 weeks after the date on which the first such change occurred;
 - (b) where sub-paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in paragraph (10)(b) occurred.”; and
 - (iv) in new paragraph (13)—
 - (aa) for “sub-paragraphs (a) to (c) of sub-paragraph” substitute “paragraph”;
 - (bb) for “anniversary date” substitute “effective date”;
 - (cc) for “those paragraphs” substitute “that paragraph”;
- (d) in paragraph (6) (which inserts a new regulation 59B in the Council Tax Benefit Regulations), in new regulation 59B—
 - (i) in paragraph (1) for “(2) to (8)” substitute “(2) to (4)”;
 - (ii) in paragraph (2)—
 - (aa) for the words “results in an increase”, substitute—
 - “results in—
 - (a) an increase”, and
 - (bb) after “increased rate” insert—
 - “; or
 - (b) a decrease in the rate at which council tax benefit is payable to him, the change shall take effect from the first day of the benefit week next following the date on which—
 - (i) the local authority receives notification from the Secretary of State of the increase in the amount of state pension credit; or
 - (ii) state pension credit is increased,
 - (iii) in paragraph (3)(b), for the words from “on which” to the end, substitute—
 - “on which—
 - (i) the local authority receives notification from the Secretary of State of the reduction in the amount of state pension credit; or

- (ii) state pension credit is reduced,
whichever is the later.”;
- (iv) in paragraphs (5) and (6)—
 - (aa) for “the change of circumstance is” substitute “a change of circumstances occurs in”; and
 - (bb) for “has resulted” substitute “would result”; and
- (v) in paragraph (5), for the words from “on which” to the end, substitute—
 - “on which—
 - (a) the local authority receives notification from the Secretary of State of the award of state pension credit; or
 - (b) entitlement to state pension credit begins,
whichever is the later.”;
- (13) In regulation 23 (time claims are made or treated as made) in each of the new paragraphs inserted by paragraphs (c) and (d) of that regulation, for the words from “the age” to “35 weeks” substitute “the qualifying age for state pension credit, or who, or whose partner, will attain that age not more than seventeen weeks after the date of his claim”.
- (14) In regulation 24 (notification of change of circumstances)—
 - (a) in paragraph (1)(b), in the new paragraph (6)(b), omit “, child special allowance”;
 - (b) in paragraph (2)(b), in the new paragraph (7)(b), omit “, child special allowance”.
- (15) In regulation 25 (decisions)—
 - (a) in paragraph (2), in the new paragraph (2)(b), for “, child benefit or child special allowance” substitute “or child benefit”;
 - (b) in paragraph (3), in the new paragraph (2)(b), for “, child benefit or child special allowance” substitute “or child benefit”.
- (16) In regulation 27(2) (minor amendments) omit sub-paragraphs (a) and (c).
- (17) In Schedule 2 (disregards)—
 - (a) in paragraph 2—
 - (i) after sub-paragraph (1), insert—
 - “(1A) In the Second Schedule, in paragraph 23 as it applies to council tax benefit, the reference in sub-paragraph (a) of that paragraph is to regulation 17(5).”; and
 - (ii) in sub-paragraph (2), omit paragraph (b);
 - (b) in the First Schedule (which is to have effect as Schedule 3A to the Housing Benefit Regulations and Schedule 3A to the Council Tax Benefit Regulations)—
 - (i) in paragraph 3, for sub-paragraph (3) substitute—
 - “(3) If—
 - (a) any of the earnings of the claimant or, if he has a partner, his partner, or both of them, are disregarded under sub-paragraph (1); and
 - (b) either of them has, or they both have, other earnings,
so much of those other earnings as would not, in aggregate with the earnings disregarded under that sub-paragraph, exceed £20.”;
 - (ii) in paragraph 4(1), after “claimant or” insert “, if he has a partner.”;
 - (iii) in paragraph 9(1), for the words from “a sum” to “Regulations” substitute “£11.90”;

- (iv) in paragraph 9(2)(b)(i), for the words from “or if” to “partner are” substitute “or any partner of his is”; and
- (v) in paragraph 9(3), for sub-paragraph (c), substitute the following—
 - “(c) £11.90.”;
- (c) in the Second Schedule (which is to have effect as Schedule 4A to the Housing Benefit Regulations and Schedule 4A to the Council Tax Benefit Regulations)—
 - (i) in paragraph 6(1)(a) after the word “widow” insert “or widower”;
 - (ii) in paragraph 21, for the words from “the amount” to “Regulations” substitute “£11.90”;
 - (iii) after paragraph 21 insert—
 - “**22.** Any special war widows payment made under—
 - (a) the Naval and Marine Pay and Pensions (Special War Widows Payment) Order 1990 made under section 3 of the Naval and Marine Pay and Pensions Act 1865;
 - (b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977;
 - (c) the Queen’s Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917;
 - (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980;
 - (e) the Orders dated 19th February 1990 amending Orders made on 12th December 1980 concerning the Ulster Defence Regiment made in each case under section 140 of the Reserve Forces Act 1980;and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under the provisions mentioned in sub-paragraphs (a) to (e) of this paragraph.
 - “**23.** Where the total value of any capital specified in Part II of Schedule 5ZA does not exceed—
 - (a) in the case of a claimant residing permanently in accommodation to which regulation 25(5) applies, £10,000; or
 - (b) in any other case, £6,000,any income actually derived from such capital.”;
- (d) in Part I of the Third Schedule (which is to have effect as Schedule 5ZA of the Housing Benefit Regulations and Schedule 5ZA of the Council Tax Benefit Regulations)—
 - (i) omit paragraph 6(2);
 - (ii) in paragraph 14(1), for “where one of the partners” substitute “who is”;
 - (iii) in paragraph 14(1)(a) omit “is”;
 - (iv) in paragraph 14(1)(b), before “was” insert “a diagnosed person’s partner or”;
 - (v) in paragraph 14(1)(c) omit “is”;
 - (vi) in paragraph 14(2) after “Where” insert “a trust payment is made to”;
 - (vii) in paragraph 14(2)(a) for “sub-paragraph (1)(a) or (b) applies, it” substitute “a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph” and for “the partner” substitute “that person”;

- (viii) in paragraph 14(2)(b) for “sub-paragraph (1)(c) applies, it” substitute “a person referred to in sub-paragraph (1)(c), that sub-paragraph”;
- (ix) in paragraph 14(3) for “where one of the partners” substitute “who is”;
- (x) in paragraph 14(3)(a) omit “is”;
- (xi) in paragraph 14(3)(b) before “was” insert “a diagnosed person’s partner or”;
- (xii) in paragraph 14(3)(c) omit “is”;
- (xiii) in paragraph 14(4), after “Where” insert “a payment such as referred to in sub-paragraph (3) is made to”;
- (xiv) in paragraph 14(4)(a), for “sub-paragraph (3)(a) or (b) applies, it” substitute “a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph” and for “the partner” substitute “that person”;
- (xv) in paragraph 14(4)(b), for “sub-paragraph (3)(c) applies, it” substitute “a person referred to in sub-paragraph (3)(c), that sub-paragraph”;
- (xvi) in paragraph 14(6) for “Creutzfeld”, in both places where it appears, substitute “Creutzfeldt”;
- (xvii) in paragraph 17(2)(a) for the words from “under the provisions” to “Rules 1981” there shall be substituted “or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998(13)”;
- (xviii) in paragraph 17(2)(b) omit the words from “made” to “, or”;
- (xix) in paragraph 21(1), for “sub-paragraph (3)” substitute “paragraph 21A”, and after paragraph (c) insert—
 - “(cc) to rectify, or compensate for, an official error, as defined for the purposes of paragraph 21A, being an amount to which that paragraph does not apply.”;
- (xx) omit paragraph 21(2)(h) and (j);
- (xxi) for paragraph 21(2)(k) substitute—
 - “(k) an increase of a disablement pension under section 104 of the Contributions and Benefits Act (increase where constant attendance is needed), and any further increase of such a pension under section 105 of that Act (increase for exceptionally severe disablement);”;
- (xxii) in paragraph 21(2)(1) after “severe disablement” insert “or need for constant attendance”;
- (xxiii) in paragraph 21, omit sub-paragraphs (3) and (4);
- (xxiv) after that paragraph, insert—

“**21A.**—(1) Subject to sub-paragraph (3), any payment of £5,000 or more which has been made to rectify, or to compensate for, an official error relating to a relevant benefit and has been received by the claimant in full on or after the day on which he became entitled to benefit under these Regulations.

(2) Subject to sub-paragraph (3), the total amount of any payments disregarded under—

- (a) paragraph 7(2) of Schedule 10 to the Income Support (General) Regulations 1987(14);

(13) S.I. 1998/3132.

(14) S.I. 1987/1967. Paragraph 7(2) was inserted by S.I. 2002/2380.

- (b) paragraph 12(2) of Schedule 8 to the Jobseeker's Allowance Regulations 1996⁽¹⁵⁾;
- (c) paragraph 8(2) of Schedule 5 to these Regulations⁽¹⁶⁾;
- (d) paragraph 20A of Schedule V to the State Pension Credit Regulations 2002⁽¹⁷⁾,

where the award in respect of which the payments last fell to be disregarded under those Regulations either terminated immediately before the relevant date or is still in existence at that date.

(3) Any disregard which applies under sub-paragraph (1) or (2) shall have effect until the award comes to an end.

(4) In this paragraph—

“the award”, except in sub-paragraph (2), means—

- (a) the award of benefit under these Regulations during which the relevant sum or, where it is paid in more than one instalment, the first instalment of that sum is received; and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such award, provided that, for such further awards, the claimant—
 - (i) is the person who received the relevant sum;
 - (ii) is the partner of that person; or
 - (iii) was the partner of that person at the date of his death.

“official error”—

- (a) where the error relates to housing benefit or council tax benefit, has the meaning given by regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001⁽¹⁸⁾; and
- (b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999⁽¹⁹⁾;

“the relevant date” means—

- (a) in the case of an existing award of benefit under these Regulations, 6th October 2003; and
- (b) in any other case, the date on which the claim for benefit under these Regulations was made;

“relevant benefit” means any benefit specified in paragraph 21(2); and

“the relevant sum” means the payment referred to in sub-paragraph (1) or the total amount referred to in sub-paragraph (2).”;

(xxv) after paragraph 25, insert—

⁽¹⁵⁾ S.I. 1996/207. Paragraph 12(2) was inserted by S.I. 2002/2380.

⁽¹⁶⁾ Paragraph 8(2) was inserted by S.I. 2002/2380.

⁽¹⁷⁾ S.I. 2002/1792. Paragraph 20A was inserted by S.I. 2002/3197.

⁽¹⁸⁾ S.I. 2001/1002. Regulation 1(2) was amended by S.I. 2002/1379 and 2002/1703.

⁽¹⁹⁾ S.I. 1999/991. Regulation 1(3) was amended by S.I. 2002/1379.

“**25A.** The dwelling occupied as the home; but only one dwelling shall be disregarded under this paragraph.”

(e) in Part II of that Schedule, omit paragraph 29.

Amendment of the Housing Benefit Regulations

3.—(1) The Housing Benefit Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 4(5) (remunerative work), after the words “income support”, insert “, state pension credit”.

(3) In regulation 63(7)(**20**) after sub-paragraph (d), insert the following sub-paragraph—

“(dd) he is a full-time student and the claimant or his partner has attained the age of 65; or”.

Amendment of the Council Tax Benefit Regulations

4.—(1) The Council Tax Benefit Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 4(5) (remunerative work), after the words “income support” insert “, state pension credit”.

(3) In regulation 52(8)(**21**), after sub-paragraph (b); insert—

“(c) who is on state pension credit and would not be treated as being in remunerative work, if they were not in receipt of that benefit.”.

Amendment of the Decisions and Appeals Regulations

5.—(1) The Decisions and Appeals Regulations shall be amended in accordance with the following paragraphs.

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “the Act” insert—

““the 1998 Act” means the Social Security Act 1998(**22**);”;

(b) after the definition of “Decisions and Appeals Regulations 1999” insert—

““family” has the same meaning as in section 137 of the Social Security Contributions and Benefits Act 1992(**23**);”.

(3) In regulation 4 (revision of decisions) after paragraph (7A)(**24**) insert—

“(7B) Where—

(a) the relevant authority makes an original decision awarding housing benefit or council tax benefit to a claimant; and

(b) entitlement to a relevant benefit within the meaning of section 8(3) of the 1998 Act or to an increase in the rate of that relevant benefit is awarded to the claimant or a member of his family for a period which includes the date on which the original decision took effect,

the relevant authority may revise or further revise that original decision at any time.

(20) Regulation 63(7) was amended by S.I. 1990/546, 1991/387, 1992/50 and 1998/563.

(21) Regulation 52(8) was amended by S.I. 1996/1510.

(22) 1998 c. 14.

(23) 1992 c. 4.

(24) Paragraph (7A) was inserted by S.I. 2002/490.

(7C) Where entitlement to housing benefit or council tax benefit has ceased (“decision A”) because entitlement to a relevant benefit within the meaning of section 8(3) of the 1998 Act has ceased (“decision B”), decision A may be revised at any time if the entitlement to the relevant benefit to which decision B applies has been reinstated in consequence of a decision made under paragraph 4 of Schedule 7 to the Act or on an appeal under paragraph 6 of that Schedule.”.

(4) In regulation 7(2) (decisions superseding earlier decisions) after sub-paragraph (h)(25) add—

“(i) where—

(i) the claimant has been awarded entitlement to housing benefit or council tax benefit; and

(ii) subsequent to the first day of the period to which that entitlement relates, the claimant or a member of his family becomes entitled to an award of a relevant benefit within the meaning of section 8(3) of the 1998 Act or an increase in the rate of that relevant benefit.”.

(5) In regulation 8 (date from which a decision superseding an earlier decision takes effect) after paragraph (13)(26) add—

“(14) Where the decision is superseded in accordance with regulation 7(2)(i) the superseding decision shall take effect from the date on which entitlement arises to the relevant benefit referred to in regulation 7(2)(i)(ii) or to an increase in the rate of that relevant benefit.”

7th September 2003

Andrew Smith
Secretary of State,
Department for Work and Pensions

(25) Sub-paragraph (h) was inserted by [S.I. 2002/490](#).

(26) Paragraph (13) was inserted by [S.I. 2003/1338](#).

Status: This is the original version (as it was originally made).

SCHEDULE

PROVISIONS CONFERRING POWERS EXERCISED IN MAKING THESE REGULATIONS

<i>Short title</i>	<i>Provision</i>	<i>Relevant amendments</i>
Social Security Contributions and Benefits Act 1992	Section 123(1)(d) and (e)	Local Government Finance Act 1992 (27) , Schedule 9, paragraph 1(1)
	Section 130(4)	
	Section 131(10)(a)	
	Section 135(1), (5) and (6)	Tax Credits Act 2002 (28) , Schedule 6
	Section 136(3), (4) and (5)(b)	
	Section 136A	State Pension Credit Act 2002 (29) , Schedule 2, paragraph 3
	Section 137(1) (30) and (2)(c), (d) and (k)	Jobseekers Act 1995 (31) , Schedule 2, paragraph 35(3)
	Section 175(1), (3) and (4)	Social Security Contributions (Transfer of Functions, etc.) Act 1999 (32) , Schedule 3, paragraphs 29(1), (2) and (4)
Social Security Administration Act 1992 (33)	Section 5(1)(b)	Local Government Finance Act 1992, Schedule 9, paragraph 12(1)(a)
	Section 6(1)(b)	
	Section 189(1) and (4)	Social Security Act 1998, Schedule 7, paragraph 109(a) and (c), and Schedule 8
Social Security Act 1998	Section 34(2)	
	Section 79(1) and (4)	
	Section 84 (34)	
Child Support, Pensions and Social Security Act 2000 (35)	Paragraphs 3(1), 4(4) and (6), 20(1) and (3) and 23(1) of Schedule 7 (36)	

(27) 1992 c. 14.

(28) 2002 c. 21.

(29) 2002 c. 16.

(30) Section 137(1) is cited for the meaning of the word "prescribed".

(31) 1995 c. 18.

(32) 1999 c. 2.

(33) 1992 c. 5.

(34) Section 84 is cited for the meaning of the word "prescribed".

(35) 2000 c. 19.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend instruments which make provision concerning housing benefit and council tax benefit under Part VII of the Social Security Contributions and Benefits Act 1992, in connection with the introduction of state pension credit under the State Pension Credit Act 2002 on 6th October 2003.

Regulation 2 amends the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (“the 2003 Regulations”) which make provision as respects entitlement to housing benefit and council tax benefit in relation to persons who have attained the qualifying age for state pension credit. (Many of the amendments are made in consequence of amendments made to the State Pension Credit Regulations 2002 (S.I. 2002/1792) by the State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274).) Amendments are made in particular in relation to the treatment of persons as being, or not being, in remunerative work; the determination of the applicable amount in the case of a person who is a lone parent; the determination of the disabled child premium in a case where the child has recently died; the treatment as income of amounts received by the claimant from sub-letting; for statutory paternity pay and statutory adoption pay to be treated in the same way as statutory maternity pay in the calculation of child care charges; to make further provision in connection with deductions to be made in relation to non-dependants living in the household; and to provide for the date on which changes of circumstances are to have effect. Changes are also made in the provision in the First Schedule set out in Schedule 2 to the 2003 Regulations for specified categories of earnings to be disregarded (in particular in relation to couples where one partner is in a specified occupation); in the Second Schedule set out in that Schedule 2 for other income to be disregarded (in particular specified payments to war widows and war widowers); and in the Third Schedule set out in that Schedule 2 for capital to be disregarded (in particular in relation to compensation payments received in respect of the non-payment of certain benefits). Regulation 2 also makes minor and technical amendments in the 2003 Regulations.

Regulations 3 and 4 amend, respectively, the Housing Benefit (General) Regulations 1987 and the Council Tax Benefit (General) Regulations 1992 in connection with the treatment of persons on state pension credit as being, or not being, in remunerative work for certain specified purposes.

Regulation 5 amends the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 to make further provision in relation to the revision, and further revision, of decisions awarding housing benefit or council tax benefit which are affected by a change in a person’s entitlement to another benefit, and for the supersession of such decisions, including provision for the date on which the superseding decision is to take effect.

These Regulations do not impose a charge on business.

(36) Paragraph 23(1) is cited for the meaning of the word “prescribed”.