
STATUTORY INSTRUMENTS

2004 No. 2303

**The Housing Benefit and Council Tax Benefit
(Miscellaneous Amendments) (No. 2) Regulations 2004**

Amendment to the Housing Benefit Regulations

2.—(1) The Housing Benefit Regulations shall be amended in accordance with the following paragraphs.

(2) In regulation 2(1) (interpretation), after “polygamous marriage” insert—

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

- (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;”.

(3) In regulation 5 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home), after paragraph (5) insert—

“(5A) Where—

- (a) a person has moved into a dwelling for which he is not liable to make payments (“the new dwelling”); and
- (b) immediately before that move, he was liable to make payments for the dwelling he previously occupied as his home (“the former dwelling”); and
- (c) that liability continues after he has moved into the new dwelling,

he shall be treated as occupying the former dwelling as his home for a period not exceeding four benefit weeks if he could not reasonably have avoided liability in respect of that former dwelling.”.

(4) In regulation 65 (date on which entitlement is to commence)—

- (a) in paragraph (1), for “and (3)” substitute “to (5)”;
- (b) after paragraph (3), add—

“(4) Subject to paragraph (5), where regulation 72BA (time for claiming housing benefit) applies, a person who makes a claim for, and is otherwise entitled to, housing benefit shall be entitled to that benefit from the benefit week following the first day in respect of which that claim is made.

(5) Where regulation 72BA applies, a claimant who is otherwise entitled to housing benefit and becomes liable, for the first time, to make payments in respect of the dwelling which he occupies as his home in the benefit week in which the first day in respect of which his claim was made falls, shall be so entitled from that benefit week.”.

(5) In regulation 69 (calculation of weekly amounts), in paragraphs (4)(a) and (5)(a) after “regulation 65(2)” in both places it appears, insert “or (5)”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(6) After regulation 72B (date of claim where claim sent or delivered to an office of a designated authority)(1), insert—

“Time for claiming housing benefit

72BA.—(1) This regulation applies to persons to whom regulation 2 of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003(2) (housing benefit regulations) applies.

(2) Where this regulation applies, the prescribed time for claiming housing benefit is as regards any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to housing benefit, that day and the period of twelve months immediately following it.”.

(1) Regulations 72B and 72C were inserted by S.I.1999/3108 and regulation 72B was substituted for regulations 72B and 72C by S.I. 2000/897.

(2) S.I. 2003/325. The relevant amending instruments are S.I. 2003/1195, S.I. 2003/2275, S.I. 2003/2634 and S.I. 2004/290.