

2004 No. 781

SOCIAL SECURITY

**The Housing Benefit and Council Tax Benefit (Miscellaneous
Amendments) Regulations 2004**

<i>Made</i> - - - -	<i>16th March 2004</i>
<i>Laid before Parliament</i>	<i>19th March 2004</i>
<i>Coming into force</i> - -	<i>9th April 2004</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 123(1)(d) and (e), 130(4), 131(10), 137(1) and 175(3), (4) and (6) of the Social Security Contributions and Benefits Act 1992(a) and section 122(3) and (5) of the Housing Act 1996(b), and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(c) and after consultation with organisations appearing to him to be representative of the authorities concerned(d) hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) Regulations 2004 and shall come into force on 9th April 2004.

(2) In these Regulations—

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

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(f).

Amendment of regulation 11 of the Housing Benefit Regulations

2. In regulation 11(6)(b)(g) of the Housing Benefit Regulations (maximum rent) in heads (i) and (ii) after the words “12A(1)”, in each case where they occur, insert the words “(b), (bb)”.

(a) 1992 c.4; section 123(1)(e) was substituted by paragraph 1(1) of Schedule 9 to the Local Government Finance Act 1992 (c.14); section 131(10) was substituted by paragraph 4 of Schedule 9 to the Local Government Finance Act 1992; section 137(1) is cited because of the meaning ascribed to the word “prescribed”; section 175(4) was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and section 175(6) was amended by paragraph 10 of Schedule 9 to the Local Government Finance Act 1992.

(b) 1996 c.52.

(c) See section 173(1)(b) of the Social Security Administration Act 1992 c.5.

(d) See section 176(1)(a) of the Social Security Administration Act 1992.

(e) S.I. 1992/1814.

(f) S.I. 1987/1971.

(g) S.I. 2003/1338 and 2004/14.

Amendment of regulation 12A of the Housing Benefit Regulations

3. In regulation 12A(a) of the Housing Benefit Regulations (requirement to refer to rent officers)—

- (a) in paragraph (1)—
 - (i) after sub-paragraph (b) insert the following sub-paragraph—

“(bb) it has received a notification of a change of dwelling; or”;
 - (ii) in sub-paragraph (d) for the words “or (b) above in relation to” substitute the words “, (b), (bb) or (c) above where the resulting determination has been applied to”;
- (b) in paragraph (3) after sub-paragraph (b) insert the following sub-paragraph—

“(bb) relevant authority receiving a notification of a change of dwelling; or”;
- (c) in paragraph (8), at the appropriate place, insert—

““change of dwelling” means a change of dwelling occupied by a claimant as his home during the award where the dwelling to which the claimant has moved is one in respect of which the authority may make a rent allowance;”.

Amendment of Schedule 5A to the Housing Benefit Regulations and Schedule 5A to the Council Tax Benefit Regulations

4.—(1) In paragraph 12(1) of Schedule 5A(b) to the Housing Benefit Regulations (extended payment of housing benefit) in the definition of “second dwelling”—

- (a) for the words “or is about to move” substitute the words “, or is about to move,”; and
- (b) for the words “in respect of rent” substitute the words “of rent in respect”.

(2) In paragraph 8(1) of Schedule 5A(c) to the Council Tax Benefit Regulations (extended payment of council tax benefit) in the definition of “second dwelling” for the words “in which he is” to the end of that definition substitute the words “in which he is or will be resident, and where the liability to pay council tax in respect of his dwelling follows on immediately from the liability to pay council tax in respect of his previous dwelling.”.

Local housing allowance

5.—(1) In relation to the area of a relevant authority specified in Schedule 1 to the Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2003(d) the Housing Benefit Regulations shall have effect subject to the modifications and amendments set out in paragraphs (2), (3) and (4).

- (2) In regulation 10(e) (rent)—
 - (a) in paragraph (3B) after the words “or (b)(i), (ii) or (iii)” insert the words “(aa)”;
 - (b) in paragraph (3D) after the words “(b)(i),(ii) or (iv)” insert the words “(aa) to (cc)”;
 - (c) in sub-paragraphs (a) to (e) of paragraph (3I) after the words “in accordance with paragraph (3A) which is equal to or exceeds it”, in each place they occur, insert the words “or is based on a maximum rent (standard local rate) determined by virtue of regulation 11A(1)(b)(iv)(dd)”.
- (3) In regulation 11A(f) (maximum rent (standard local rate))—

(a) Regulation 12A was inserted by S.I. 1990/546; relevant amending instruments are S.I. 1993/317, 1995/1644 and 2868, 1999/2401, 2000/4, 2001/1605, 2003/48, 1338 and 2399 and 2004/14.

(b) Schedule 5A was inserted by S.I. 1996/194; relevant amending instruments are 1996/1510, 1999/2556, 2001/537 and 2004/14.

(c) Schedule 5A was inserted by S.I. 1996/194; relevant amending instruments are 1996/1510, 1999/2556, 2001/537 and 2004/14.

(d) S.I. 2003/2399.

(e) Relevant amending instruments are S.I. 2003/2399 and 2004/14.

(f) Regulation 11A was inserted by S.I. 2003/2399 and amended by S.I. 2004/14.

- (a) in sub-paragraph (b) of paragraph (1)—
 - (i) in head (iii) number the words from “a notification of a change” to the end of that head as sub-head (aa) and after that sub-head insert the following sub-head—
 - “(bb) a notification of a change of dwelling where the change occurs on or after the 9th April 2004; or”;
 - (ii) in head (iv)—
 - (aa) after sub-head (bb) omit the word “or”; and
 - (bb) after sub-head (cc) insert the following sub-head—
 - “;or
 - (dd) notification of a change of dwelling; or”;
 - (b) in paragraph (9), at the appropriate place, insert—
 - “change of dwelling” has the same meaning as in regulation 12A;”.
- (4) In paragraph (2B) of regulation 12A after the words “paragraph (1)(a), (aa), (b)” insert the words “,(bb)”.

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

16th March 2004

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit (General) Regulations (“the Housing Benefit Regulations”) and the Council Tax Benefit (General) Regulations (“the Council Tax Benefit Regulations”).

Regulation 2 amends regulation 11 of the Housing Benefit Regulations by including rent officer determinations made as a result of notification of a change in relation to a rent allowance or a change of dwelling in the category of rent officer determinations which, where adopted as part of a benefit decision, end a limiting or reduction of the existing maximum rent in respect of which benefit may be paid.

Regulation 3 amends regulation 12A of the Housing Benefit Regulations, inserting a definition of notification of change of dwelling, requiring a referral to the rent officer to be made where such a notification is made and making consequential provision. It provides for the requirement for a referral to the rent officer to be made where it is 52 weeks since the last application to apply only where the resulting determination was applied to the claim or award in question and it extends the types of rent officer determinations to which the 52 week provision applies to determinations made as a result of notification of a change of dwelling and pre-tenancy determinations.

Regulation 4 amends the Housing Benefit Regulations and the Council Tax Benefit Regulations to ensure that the definition of “second dwelling” is the same in relation to extended payments and extended payments (severe disablement allowance and incapacity benefit). (These are payments which are made after the end of an award of benefit in certain circumstances).

Regulation 5 makes modifications and amendments in relation to the area of a relevant authority specified in Schedule 1 to the Housing Benefit (Local Housing Allowance) Amendment Regulations 2003 for those cases to which the new arrangements apply for determining eligible housing costs for the purposes of claims and awards of housing benefit.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

£3.00

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under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E0436 3/2004 140436T 19585

ISBN 0-11-048926-8



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