
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit (General) Regulations 1987 (“the Housing Benefit Regulations”) and the Council Tax Benefit (General) Regulations 1992 (“the Council Tax Benefit Regulations”).

The Housing Benefit Regulations and the Council Tax Benefit Regulations were modified by the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (“the 2003 Regulations”) for persons who have attained the qualifying age for state pension credit (except where regulation 2(2) (for housing benefit) and 12(2) (for council tax benefit), of those Regulations applies). These Regulations amend the Housing Benefit Regulations and the Council Tax Benefit Regulations as so modified and as not so modified, as set out in regulations 2(1) and (2) and 3(1) and (2).

Regulation 2 amends the Housing Benefit Regulations. Paragraph (3) removes from regulation 16 (which applies to persons who have attained the qualifying age for state pension credit) provisions which provide for the reduction of a claimant's applicable amount where he or his partner are a long term patient. It also removes other ancillary provisions from that regulation. Paragraph (4) removes regulation 18 which contains an equivalent provision which applies to claimants who have not reached the qualifying age for state pension credit. Paragraph (5) imports into regulation 21A(4)(c) the definition of “patient” previously in regulation 18. Paragraph (6) removes incorrect references in regulation 28(12) (which applies to persons who have attained the qualifying age for state pension credit). Paragraph (7) makes a minor, technical amendment to regulation 36(7)(a). Paragraph (8) amends regulation 63(7) which prevents non-dependent deductions being made where the non-dependent is a long term patient, by amending the definition of “patient” and the rule under which periods of time spent as a patient are calculated. Paragraph (9) amends regulation 65 by removing an obsolete provision and inserting a new paragraph (5) under which the benefit week from which a claimant becomes entitled to housing benefit is determined in particular circumstances. Paragraph (10) omits paragraph (1A) of regulation 68 and inserts into that regulation new provisions under which the date on which a change of circumstances takes effect is determined in various, specified circumstances. It also makes other minor, technical amendments. Paragraph (11) makes the same amendment made by paragraph (7) in regulation 68B. Paragraph (12) amends regulation 69 by inserting new provisions under which a claimant's weekly eligible rent is calculated. It also makes other, ancillary amendments. Paragraph (13) makes ancillary technical amendments to regulation 70 consequent upon the amendments to regulation 69 made by paragraph (12). Paragraph (14) amends regulation 75(6) by removing the requirement on a person receiving only savings credit to report changes affecting child tax credit or child benefit. Paragraph (15) makes minor, technical amendments to Schedule 2. Paragraph (16) removes the requirement that arrears of working tax credit or child tax credit must be paid as a result of a change of circumstances in order to be disregarded in a claimant's assessment of capital. Paragraph (17) amends paragraph 21(2) of Schedule 5ZA (which applies to persons who have attained the qualifying age for state pension credit) by adding discretionary housing payments and working tax credit to the list of benefits which may be disregarded as capital in the assessment of a claimant's capital. Paragraph (18) amends paragraph 9(2) of Schedule 6 by removing the requirement to refer in a decision notice to the amount of any child tax credit or child benefit where a person on state pension credit is entitled only to savings credit.

Regulation 3 amends the Council Tax Benefit Regulations. Paragraphs (3) to (9) make amendments to those Regulations which are the equivalent of those made by paragraphs (3) to (6), (8), (10) and (14) respectively of regulation 2. Paragraph (10) removes an obsolete reference from and, replaces obsolete terminology in regulation 79(1). Paragraph (11) makes an amendment

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to Schedule 1 equivalent to that made by paragraph (15) of regulation 2. Paragraph (12) adds to paragraph 1(2) of Schedule 2 a new provision under which alternative maximum council tax benefit is calculated as 100% in the specified circumstances. Paragraphs (13) to (15) make amendments which are equivalent to those made by paragraphs (16) to (18) of regulation 2. A full regulatory impact assessment has not been produced for this Instrument as it has no impact on the cost of business.

Changes to legislation:

There are currently no known outstanding effects for the The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No.3) Regulations 2005.