

**EXPLANATORY MEMORANDUM TO
THE HOUSING BENEFIT AND COUNCIL TAX BENEFIT (AMENDMENT)
(NO.2) REGULATIONS 2006**

2006 No. 2967

AND

**THE HOUSING BENEFIT AND COUNCIL TAX BENEFIT (ELECTRONIC
COMMUNICATIONS) ORDER 2006**

2006 No. 2968

1. This explanatory memorandum, which covers two statutory instruments, has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 Taken as a whole the measures provide that, in relation to Housing Benefit and Council Tax Benefit:

- Claims, amendments of claims and changes of circumstance notifications should either be made in writing (whether handwritten or electronic) or by telephone
- Changes of circumstance notifications may be made in person to a relevant local authority
- Authorities which accept telephone claims may require that claimants subsequently approve a written statement of their claim, and
- Claims, amendments of claims and changes of circumstances notifications can be made electronically, but this first requires:
 - An authority's Chief Executive to make a direction to this effect and such a direction may impose restrictions

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Background**

4.1 Part 10 of the Housing Benefit Regulations 2006, Part 8 of the Council Tax Benefit Regulations 2006 and the equivalent provisions for pensioners provide the legislative framework within which local authorities and in some cases the Department for Work and Pensions (the Department) must operate when receiving claims to those benefits, amendments to claims and changes of circumstance notifications. The Electronic Communications Act 2000 enables legislation to be modified to facilitate written communication by electronic means.

4.2 The Department has identified a need to update the means by which local authorities administering Housing Benefit and Council Tax Benefit can accept claims to benefit, amendments to such claims and changes of circumstance notifications so that they can be discharged by telephone or electronically. This brings authorities into line with Departmental practice and more generally the public and private sectors, which are increasingly using non paper-based communications relating to claims, goods and services.

4.3 The regulations enable authorities to accept claims, amendments and change notifications to be made by telephone. The Order modifies parts of the secondary legislation to enable an existing requirement that something be done in writing, to be discharged by electronic means, providing that the relevant local authority's Chief Executive has made a direction permitting business to be conducted in this manner.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 As this instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 The need to make amendments to, and provide local authorities with the means to modify, existing secondary legislation has been precipitated by a number of wider developments.

7.2 In part this was a response to some local authorities which felt constrained by existing rules which required that all claims to Housing Benefit and Council Tax Benefit, amendments to claims and changes of circumstance notifications must be made in writing. These authorities wanted to explore and exploit more modern and potentially cost effective methods of conducting their business, such as by telephone or electronic means.

7.3 The Department had already recognised these opportunities and made changes to legislation to enable a number of benefits to be claimed either by telephone or electronically. Perhaps the most notable recent example was legislation introduced in 2006 to enable Pension Credit applications to be made by telephone.

7.4 Against this background, in the context of the Department's simplification agenda and the increasing trend across both the public and private sectors to modernise the way that they conduct their business, the Department consulted all 408 authorities that administer Housing Benefit on the idea of enabling claims to be made other than in the traditional hand-written form.

7.5 The Department received around 30 responses to the consultation, which reflected a range of views. Some respondents saw such changes as an opportunity to streamline their claims administration, whilst others were concerned that they could let more fraud and error into the system.

- 7.6 The Department decided that it was right to proceed with legislation to ensure that local authorities do not get left behind in terms of the options available to them for conducting business. Equally, concerns about fraud and error would be addressed through guidance.
- 7.7 The regulations and the Order are enabling rather than mandatory, to reflect the fact that not all authorities will wish to use the new powers immediately or for all areas of activity to which they potentially apply. Authorities will need to weigh up a number of factors before deciding whether to use the new powers, including software capabilities and the degree to which their anti-fraud and error systems could accommodate such changes.
- 7.8 The decision to enable claims activity to be conducted electronically is an important one and the Order therefore grants this to each local authority's Chief Executive. Chief Executives would signify their decision to "e-enable" their Housing Benefit administration by means of a direction, which would set out the framework for how it would work within that particular authority.
- 7.9 The regulations were submitted to the Social Security Advisory Committee, which approved the proposals without requiring formal reference. The Order fell outside their remit but was referred to the Committee as a courtesy.
- 7.10 Most Housing Benefit and Council Tax Benefit claims are now made via the Department's agencies – Jobcentre Plus and the Pension Service. The regulations will enable a telephone claim for these benefits to be made by pensioners to the Pension Service, but claims to Jobcentre Plus are not affected since working age clients do not currently claim DWP benefits by this method. An authority which opts to e-enable its claim process would have to accept a claim made in future to the Department by this method, provided it fulfilled the requirements of the authority's direction.
- 7.11 Full guidance will be issued to local authority staff in advance of the commencement of these provisions to ensure that they are aware of these new options and to enable those wishing to take them up, to do so.
- 7.12 The regulations will amend consolidating regulations which came into force on 6th March 2006 (for example The Housing Benefit Regulations 2006 – S.I. No 213). The amending regulations will be informally consolidated through incorporation into the DWP Blue Volumes, available to view on line for free. The Order will also be incorporated into the Blue Volumes.

8. Impact

- 8.1 A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.
- 8.2 These measures have some potential to deliver administrative savings in the longer term for local authorities.

9. **Contact**

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