

2008 No. 2299

SOCIAL SECURITY

**The Housing Benefit and Council Tax Benefit (Amendment)
Regulations 2008**

<i>Made</i>	- - - -	<i>27th August 2008</i>
<i>Laid before Parliament</i>		<i>3rd September 2008</i>
<i>Coming into force</i>	- -	<i>1st October 2008</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 5(1)(a) and (h), 6(1)(a) and (h), 113, 122C(2), 122E(3), 189(1) and (4) to (6) and 191 of the Social Security Administration Act 1992(a).

The Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it(b).

In accordance with section 176(1) of the Social Security Administration Act 1992, the Secretary of State has consulted with organisations which appear to him to be representative of the authorities concerned(c).

Citation and commencement

1. These Regulations may be cited as the Housing Benefit and Council Tax Benefit (Amendment) Regulations 2008 and shall come into force on 1st October 2008.

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- (a) 1992 c.5. Section 6 was amended by paragraph 12(1)(a) of Schedule 9 to the Local Government Finance Act 1992 (c.14). Section 113 was substituted by section 60 of the Social Security Act 1998 (c.14) and was amended by paragraph 7(1)(c) of Schedule 6 to the Child Support, Pensions and Social Security Act 2000 (c.19). Sections 122C and 122E were inserted by section 3 of the Social Security Administration (Fraud) Act 1997 (c.47). Section 189(1) was amended by paragraph 109 of Schedule 7 and Schedule 8 to the Social Security Act 1998, paragraph 57 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and Schedule 6 to the Tax Credits Act 2002 (c.21); section 189(4) was amended by paragraph 109 of Schedule 7 and Schedule 8 to the Social Security Act 1998. Section 191 is an interpretation provision and is cited for the meaning of the word “prescribe”.
- (b) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992.
- (c) Section 176(1) was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c.14), paragraph 3(4) of Schedule 13 to the Housing Act 1996 (c.52) and section 69(6) of the Child Support, Pensions and Social Security Act 2000 (c.19).

Amendment of the Housing Benefit Regulations 2006

- 2.—(1) The Housing Benefit Regulations 2006(a) are amended as follows.
- (2) In regulation 2(1) (interpretation), omit the definition of “gateway office”.
- (3) In regulation 82 (who may claim), omit paragraph (7).
- (4) In regulation 83(b) (time and manner in which claims are to be made)—
- (a) in paragraph (1) for “paragraph (4A)”, substitute “paragraphs (4A) to (4AE)”;
- (b) in paragraph (4) omit sub-paragraphs (d) and (e);
- (c) after paragraph (4A) insert—
- “(4AA) If the Secretary of State agrees, where—
- (a) a person makes a claim for a benefit referred to in paragraph (4)(a); and
- (b) the Secretary of State has made provision in the Social Security (Claims and Payments) Regulations 1987(c) for that benefit to be claimed by telephone,
- that person may claim housing benefit by telephone to the telephone number specified by the Secretary of State.
- (4AB) A claim for housing benefit may be made in accordance with paragraph (4AA) at any time before a decision has been made on the claim for the benefit referred to in paragraph (4)(a).
- (4AC) If the Secretary of State agrees, where a person, in accordance with regulation 32 of the Social Security (Claims and Payments) Regulations 1987 (information to be given and changes to be notified)—
- (a) furnishes the Secretary of State with such information or evidence as he may require; or
- (b) notifies the Secretary of State of any change of circumstances,
- that person may claim housing benefit in the same manner in which the information or evidence was furnished or the notification was given.
- (4AD) If the Secretary of State agrees, where a person, in accordance with regulation 24 of the Jobseeker’s Allowance Regulations (provision of information and evidence)(d)—
- (a) furnishes the Secretary of State with such certificates, documents and other evidence as he may require; or
- (b) notifies the Secretary of State of any change of circumstances,
- that person may claim housing benefit in the same manner as the certificate, document and other evidence was furnished or the notification was given.
- (4AE) A claim for housing benefit may be made in accordance with paragraphs (4AC) or (4AD) at any time before a decision has been made on the award of benefit to which the information, evidence, certificates, documents or notification relates.”;
- (d) in paragraph (4B)(e) after “by telephone” insert “in accordance with paragraph (4A)”;
- (e) after paragraph (4B) insert—
- “(4BA) The relevant authority or the Secretary of State may determine that a claim made by telephone in accordance with paragraphs (4AA) to (4AE) is not a valid claim unless the person making the claim approves a written statement of his circumstances, provided for the purpose by the Secretary of State.”;

(a) S.I. 2006/213.

(b) Relevant amending instruments are S.I. 2006/2967 and S.I. 2007/2911.

(c) S.I. 1987/1968.

(d) S.I. 1996/207.

(e) Paragraph (4B) was inserted by S.I. 2006/2967.

(f) for paragraph (4C)(a), substitute—

“(4C) A claim made by telephone in accordance with paragraphs (4A) to (4AE) is defective unless the relevant authority or the Secretary of State is provided with all the information requested during that telephone call.”;

(g) in paragraph (4D)(b) for “is to”, substitute “must”;

(h) after paragraph (4D) insert—

“(4DA) Where a claim made by telephone in accordance with paragraphs (4AA) to (4AE) is defective—

(a) the Secretary of State may provide the person making it with an opportunity to correct the defect;

(b) the relevant authority must provide the person making it with an opportunity to correct the defect if the Secretary of State has not already done so, unless it considers that it has sufficient information to determine the claim.”;

(i) in paragraph (4E)(c) for “of the date it”, substitute “of the date the relevant authority or the Secretary of State”;

(j) after paragraph (4E) insert—

“(4F) If the person does not correct the defect within one month, or such longer period as the relevant authority considers reasonable, of the date the relevant authority or the Secretary of State last drew attention to it, the relevant authority may treat the claim as if it had been duly made in the first instance where it considers that it has sufficient information to determine the claim.”;

(k) in paragraph (5), omit the words “and to regulation 84 (date of claim where claim sent or delivered to a gateway office)”;

(l) for paragraph (5)(d)(d), substitute—

“(d) except where sub-paragraph (a), (b) or (c) is satisfied, in a case where a properly completed claim is received in a designated office, an authorised office, county offices or an appropriate DWP office within one month, or such longer period as the relevant authority considers reasonable, of the date on which—

(i) a claim form was issued to the claimant following the claimant first notifying, by whatever means, a designated office, an authorised office or an appropriate DWP office of an intention to make a claim; or

(ii) a claimant notifies, by whatever means, a designated office, an authorised office or an appropriate DWP office of an intention to make a claim by telephone in accordance with paragraphs (4A) to (4AE),

the date of first notification; and”.

(5) Omit regulation 84 (date of claim where claim sent or delivered to a gateway office).

(6) Omit regulation 85 (date of claim where claim sent or delivered to an office of a designated authority).

(7) For regulation 87(e) (amendment and withdrawal of claim), substitute—

“**87.**—(1) A person who has made a claim may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.

(2) Where the claim was made by telephone in accordance with paragraphs (4A) to (4AE) of regulation 83, the amendment may also be made by telephone.

(a) Paragraph (4C) was inserted by S.I. 2006/2967.

(b) Paragraph (4D) was inserted by S.I. 2006/2967.

(c) Paragraph (4E) was inserted by S.I. 2006/2967.

(d) A relevant amending instrument is S.I. 2007/2911.

(e) Regulation 87 was substituted by S.I. 2007/719.

(3) Any claim amended in accordance with paragraph (1) or (2) shall be treated as if it had been amended in the first instance.

(4) A person who has made a claim may withdraw it at any time before a decision has been made on it by notice to the designated office.

(5) Where the claim was made by telephone in accordance with paragraphs (4AA) to (4AE) of regulation 83, the withdrawal may also be made by telephone to the telephone number specified by the Secretary of State.

(6) Any notice of withdrawal given in accordance with paragraph (4) or (5) shall have effect when it is received.”.

(8) In regulation 88(a) (duty to notify changes of circumstances) in paragraph (1)—

(a) for “paragraphs (3) and (5)”, substitute “paragraph (3)”; and

(b) omit paragraphs (2) and (5).

(9) For regulation 121 (criminal offence), substitute—

“**121.** Any supplier who fails to supply relevant information to the requirer as, when and how required under regulations 117 to 120 shall be guilty of an offence under section 113 of the Administration Act(b).”.

(10) After regulation 121 (criminal offence), insert—

“Supply of benefit administration information between authorities

121A.—(1) For the purpose of section 122E(3) of the Administration Act (supply of information between authorities administering benefit) the circumstances in which information is to be supplied and the information to be supplied are set out in paragraph (2).

(2) Where the functions of an authority (“Authority A”) relating to housing benefit are being exercised, wholly or in part, by another authority (“Authority B”)—

(a) Authority A must supply to Authority B any benefit administration information it holds which is relevant to, and necessary for, Authority B to exercise those functions; and

(b) Authority B must supply to Authority A any benefit administration information it holds which is relevant to, and necessary for, Authority A to exercise those functions.

(3) The circumstances in which paragraph (2) applies include cases where the authorities have agreed to discharge functions jointly.

(4) In paragraph (2) “Authority A” and “Authority B” include any person authorised to exercise functions relating to housing benefit on behalf of the authority in question.

(5) This regulation shall not apply if the person or authority to whom the information is to be supplied agrees that the information need not be supplied.”.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

3.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(c) are amended as follows.

(2) In regulation 2(1) (interpretation), omit the definition of “gateway office”.

(3) In regulation 63 (who may claim), omit paragraph (7).

(4) In regulation 64(d) (time and manner in which claims are to be made)—

(a) A relevant amending instrument is S.I. 2006/2967.

(b) Section 113 was substituted by section 60 of the Social Security Act 1998.

(c) S.I. 2006/214.

(d) Relevant amending instruments are S.I. 2006/2967 and S.I. 2007/2911.

- (a) in paragraph (2) for “paragraph (5A) and (5B)”, substitute “paragraphs (5A) to (5BD)”;
- (b) in paragraph (5) omit sub-paragraphs (d) and (e);
- (c) for paragraph (5B)(a), substitute—
 - “(5B) If the Secretary of State agrees, where—
 - (a) a person makes a claim for a benefit referred to in paragraph (5)(a); and
 - (b) the Secretary of State has made provision in the Social Security (Claims and Payments) Regulations 1987 for that benefit to be claimed by telephone,
 that person may claim housing benefit by telephone to the telephone number specified by the Secretary of State.

(5BA) A claim for housing benefit may be made in accordance with paragraph (5B) at any time before a decision has been made on the claim for the benefit referred to in paragraph (5)(a).

(5BB) If the Secretary of State agrees, where a person, in accordance with regulation 32 of the Social Security (Claims and Payments) Regulations 1987 (information to be given and changes to be notified)—

 - (a) furnishes the Secretary of State with such information or evidence as he may require; or
 - (b) notifies the Secretary of State of any change of circumstances,
 that person may claim housing benefit in the same manner in which the information or evidence was furnished or the notification was given.

(5BC) If the Secretary of State agrees, where a person, in accordance with regulation 24 of the Jobseeker’s Allowance Regulations (provision of information and evidence)—

 - (a) furnishes the Secretary of State with such certificates, documents and other evidence as he may require; or
 - (b) notifies the Secretary of State of any change of circumstances,
 that person may claim housing benefit in the same manner as the certificate, document and other evidence was furnished or the notification was given.

(5BD) A claim for housing benefit may be made in accordance with paragraphs (5BB) or (5BC) at any time before a decision has been made on the award of benefit to which the information, evidence, certificates, documents or notification relates.”;
- (d) in paragraph (5C)(b)—
 - (i) after “by telephone” insert “in accordance with paragraph (5A)”;
 - (ii) omit “or the Secretary of State”;
- (e) after paragraph (5C) insert—

“(5CA) The relevant authority or the Secretary of State may determine that a claim made by telephone in accordance with paragraphs (5B) to (5BD) is not a valid claim unless the person making the claim approves a written statement of his circumstances, provided for the purpose by the Secretary of State.”;
- (f) for paragraph (5D)(c), substitute—

“(5D) A claim made by telephone in accordance with paragraphs (5A) to (5BD) is defective unless the relevant authority or the Secretary of State is provided with all the information requested during that telephone call.”;
- (g) in paragraph (5E)(d)—
 - (i) omit “or (5B)”;

(a) Paragraph (5B) was inserted by S.I. 2006/2967.
 (b) Paragraph (5C) was inserted by S.I. 2006/2967.
 (c) Paragraph (5D) was inserted by S.I. 2006/2967.
 (d) Paragraph (5E) was inserted by S.I. 2006/2967.

- (ii) for “is to”, substitute “must”;
 - (h) after paragraph (5E) insert—
 - “(5EA) Where a claim made by telephone in accordance with paragraphs (5B) to (5BD) is defective—
 - (a) the Secretary of State may provide the person making it with an opportunity to correct the defect;
 - (b) the relevant authority must provide the person making it with an opportunity to correct the defect if the Secretary of State has not already done so unless it considers that it has sufficient information to determine the claim.”;
 - (i) in paragraph (5F)(a) after “of the date the relevant authority”, insert “or the Secretary of State”;
 - (j) after paragraph (5F) insert—
 - “(5G) If the person does not correct the defect within one month, or such longer period as the relevant authority considers reasonable, of the date the relevant authority or the Secretary of State last drew attention to it, the relevant authority may treat the claim as if it had been duly made in the first instance, where it considers that it has sufficient information to determine the claim.”;
 - (k) in paragraph (6), omit the words “and to regulation 65 (date of claim where claim sent or delivered to a gateway office)”;
 - (l) for paragraph (6)(d)(b), substitute—
 - “(d) except where sub-paragraph (a), (b) or (c) is satisfied, in a case where a properly completed claim is received in a designated office, an authorised office, county offices or an appropriate DWP office within one month, or such longer period as the relevant authority considers reasonable, of the date on which—
 - (i) a claim form was issued to the claimant following the claimant first notifying, by whatever means, a designated office, an authorised office or an appropriate DWP office of an intention to make a claim; or
 - (ii) a claimant notifies, by whatever means, a designated office, an authorised office or an appropriate DWP office of an intention to make a claim by telephone in accordance with paragraphs (5A) to (5BD),
 the date of first notification; and”.
- (5) Omit regulation 65 (date of claim where claim sent or delivered to a gateway office).
- (6) Omit regulation 66 (date of claim where claim sent or delivered to an office of a designated authority).
- (7) For regulation 68(c) (amendment and withdrawal of claim), substitute—
- “68.—(1) A person who has made a claim may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.
- (2) Where the claim was made by telephone in accordance with paragraphs (5A) to (5BD) of regulation 64, the amendment may also be made by telephone.
- (3) Any claim amended in accordance with paragraph (1) or (2) shall be treated as if it had been amended in the first instance.
- (4) A person who has made a claim may withdraw it at any time before a decision has been made on it by notice to the designated office.
- (5) Where the claim was made by telephone in accordance with paragraphs (5B) to (5BD) of regulation 64, the withdrawal may also be made by telephone to the telephone number specified by the Secretary of State.

(a) Paragraph (5F) was inserted by S.I. 2006/2967.
 (b) A relevant amending instrument is S.I. 2007/2911.
 (c) Regulation 68 was substituted by S.I. 2007/719.

(6) Any notice of withdrawal given in accordance with paragraph (4) or (5) shall have effect when it is received.”.

(8) In regulation 69(a) (duty to notify changes of circumstances), in paragraph (1)—

(a) for “(3) and (5) to (7)”, substitute “(3), (6) and (7)”; and

(b) omit paragraphs (2) and (5).

(9) For regulation 102 (criminal offence), substitute—

“**102.** Any supplier who fails to supply relevant information to the requirer as, when and how required under regulations 98 to 101 shall be guilty of an offence under section 113 of the Administration Act.”.

(10) After regulation 102 (criminal offence), insert—

“Supply of benefit administration information between authorities

102A.—(1) For the purpose of section 122E(3) of the Administration Act (supply of information between authorities administering benefit) the circumstances in which information is to be supplied and the information to be supplied are set out in paragraph (2).

(2) Where the functions of an authority (“Authority A”) relating to housing benefit are being exercised, wholly or in part, by another authority (“Authority B”)—

(a) Authority A must supply to Authority B any benefit administration information it holds which is relevant to, and necessary for, Authority B to exercise those functions; and

(b) Authority B must supply to Authority A any benefit administration information it holds which is relevant to, and necessary for, Authority A to exercise those functions.

(3) The circumstances in which paragraph (2) applies include cases where the authorities have agreed to discharge functions jointly.

(4) In paragraph (2), “Authority A” and “Authority B” include any person authorised to exercise functions relating to housing benefit on behalf of the authority in question.

(5) This regulation shall not apply if the person or authority to whom the information is to be supplied agrees that the information need not be supplied.”.

Amendment of the Council Tax Benefit Regulations 2006

4.—(1) The Council Tax Benefit Regulations 2006(b) are amended as follows.

(2) In regulation 2(1) (interpretation), omit the definition of “gateway office”.

(3) In regulation 68 (who may claim), omit paragraph (7).

(4) In regulation 69(c) (time and manner in which claims are to be made)—

(a) in paragraph (1) for “paragraph (4A)”, substitute “paragraphs (4A) to (4AE)”;

(b) in paragraph (4) omit sub-paragraphs (d) and (e);

(c) after paragraph (4A) insert—

“(4AA) If the Secretary of State agrees, where—

(a) a person makes a claim for a benefit referred to in paragraph (4)(a); and

(b) the Secretary of State has made provision in the Social Security (Claims and Payments) Regulations 1987 for that benefit to be claimed by telephone,

(a) A relevant amending instrument is S.I. 2006/2967.

(b) S.I. 2006/215.

(c) Relevant amending instruments are S.I. 2006/2967 and S.I. 2007/2911.

that person may claim council tax benefit by telephone to the telephone number specified by the Secretary of State.

(4AB) A claim for council tax benefit may be made in accordance with paragraph (4AA) at any time before a decision has been made on the claim for the benefit referred to in paragraph (4)(a).

(4AC) If the Secretary of State agrees, where a person, in accordance with regulation 32 of the Social Security (Claims and Payments) Regulations 1987 (information to be given and changes to be notified)—

- (a) furnishes the Secretary of State with such information or evidence as he may require; or
- (b) notifies the Secretary of State of any change of circumstances,

that person may claim council tax benefit in the same manner in which the information or evidence was furnished or the notification was given.

(4AD) If the Secretary of State agrees, where a person, in accordance with regulation 24 of the Jobseeker's Allowance Regulations (provision of information and evidence)—

- (a) furnishes the Secretary of State with such certificates, documents and other evidence as he may require; or
- (b) notifies the Secretary of State of any change of circumstances,

that person may claim council tax benefit in the same manner as the certificate, document and other evidence was furnished or the notification was given.

(4AE) A claim for council tax benefit may be made in accordance with paragraphs (4AC) or (4AD) at any time before a decision has been made on the award of benefit to which the information, evidence, certificates, documents or notification relates.”;

(d) in paragraph (4B)(a) after “by telephone” insert “in accordance with paragraph (4A)”;

(e) after paragraph (4B) insert—

“(4BA) The relevant authority or the Secretary may determine that a claim made by telephone in accordance with paragraphs (4AA) to (4AE) is not a valid claim unless the person making the claim approves a written statement of his circumstances provided for the purpose by the Secretary of State.”;

(f) for paragraph (4C)(b), substitute—

“(4C) A claim made by telephone in accordance with paragraphs (4A) to (4AE) is defective unless the relevant authority or the Secretary of State is provided with all the information requested during that telephone call.”;

(g) in paragraph (4D)(c) for “is to”, substitute “must”;

(h) after paragraph (4D) insert—

“(4DA) Where a claim made by telephone in accordance with paragraphs (4AA) to (4AE) is defective—

- (a) the Secretary of State may provide the person making it with an opportunity to correct the defect;
- (b) the relevant authority must provide the person making it with an opportunity to correct the defect if the Secretary of State has not already done so unless it considers that it has sufficient information to determine the claim.”;

(a) Paragraph (4B) was inserted by S.I. 2007/2967.
(b) Paragraph (4C) was inserted by S.I. 2007/2967.
(c) Paragraph (4D) was inserted by S.I. 2006/2967.

- (i) in paragraph (4E)(a) for “of the date it”, substitute “of the date the relevant authority or the Secretary of State”;
- (j) after paragraph (4E) insert—
 - “(4F) If the person does not correct the defect within one month, or such longer period as the relevant authority considers reasonable, of the date the relevant authority or the Secretary of State last drew attention to it, the relevant authority may treat the claim as if it had been duly made in the first instance where it considers that it has sufficient information to determine the claim.”;
- (k) in paragraph (5), omit the words “and to regulation 70 (date of claim where claim sent or delivered to a gateway office)”;
- (l) for paragraph (5)(d)(b), substitute—
 - “(d) except where sub-paragraph (a), (b) or (c) is satisfied, in a case where a properly completed claim is received in a designated office, an authorised office, county offices, or an appropriate DWP office within one month, or such longer period as the relevant authority considers reasonable, of the date on which—
 - (i) a claim form was issued to the claimant following the claimant first notifying, by whatever means, a designated office, an authorised office or an appropriate DWP office of an intention to make a claim; or
 - (ii) a claimant notifies, by whatever means, a designated office, an authorised office or an appropriate DWP office of an intention to make a claim by telephone in accordance with paragraphs (4A) to (4AE), the date of first notification; and”.
- (5) Omit regulation 70 (date of claim where claim sent or delivered to a gateway office).
- (6) Omit regulation 71 (date of claim where claim sent or delivered to an office of a designated authority).
- (7) For regulation 73(c) (amendment and withdrawal of claim), substitute—
 - “73.—(1) A person who has made a claim may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.
 - (2) Where the claim was made by telephone in accordance with paragraphs (4A) to (4AE) of regulation 69, the amendment may also be made by telephone.
 - (3) Any claim amended in accordance with paragraph (1) or (2) shall be treated as if it had been amended in the first instance.
 - (4) A person who has made a claim may withdraw it at any time before a decision has been made on it by notice to the designated office.
 - (5) Where the claim was made by telephone in accordance with paragraphs (4AA) to (4AE) of regulation 69, the withdrawal may also be made by telephone to the telephone number specified by the Secretary of State.
 - (6) Any notice of withdrawal given in accordance with paragraph (4) or (5) shall have effect when it is received.”.
- (8) In regulation 74(d) (duty to notify changes of circumstances), in paragraph (1)—
 - (a) for “paragraphs (3), (5) and (6)”, substitute “paragraphs (3) and (5)”;
 - (b) omit paragraphs (2) and (6).
- (9) After regulation 97 (supply of information: extended payments (severe disablement allowance and incapacity benefit)), insert—

(a) Paragraph (4E) was inserted by S.I. 2006/2967.
 (b) A relevant amending instrument is S.I. 2007/2911.
 (c) Regulation 73 was substituted by S.I. 2007/719.
 (d) A relevant amending instrument is S.I. 2006/2967.

“Supply of benefit administration between authorities

98.—(1) For the purpose of section 122E(3) of the Administration Act (supply of information between authorities administering benefit) the circumstances in which information is to be supplied and the information to be supplied are set out in paragraph (2).

(2) Where the functions of an authority (“Authority A”) relating to council tax benefit are being exercised, wholly or in part, by another authority (“Authority B”)—

- (a) Authority A must supply to Authority B any benefit administration information it holds which is relevant to, and necessary for, Authority B to exercise those functions; and
- (b) Authority B must supply to Authority A any benefit administration information it holds which is relevant to, and necessary for, Authority A to exercise those functions.

(3) The circumstances in which paragraph (2) applies include cases where the authorities have agreed to discharge functions jointly.

(4) In paragraph (2), “Authority A” and “Authority B” include any person authorised to exercise functions relating to council tax benefit on behalf of the authority in question.

(5) This regulation shall not apply if the person or authority to whom the information is to be supplied agrees that the information need not be supplied.”.

Amendment of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

5.—(1) The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(a) are amended as follows.

(2) In regulation 2(1) (interpretation), omit the definition of “gateway office”.

(3) In regulation 52 (who may claim), omit paragraph (7).

(4) In regulation 53(b) (time and manner in which claims are to be made)—

- (a) in paragraph (1) for “paragraph (4A) and (4B)”, substitute “paragraphs (4A) to (4BD)”;
- (b) in paragraph 4 omit sub-paragraphs (d) and (e);
- (c) for paragraph (4B)(c), substitute—

“(4B) If the Secretary of State agrees, where a person is—

- (a) making a claim for a benefit referred to in paragraph (4)(a); and
- (b) the Secretary of State has made provision in the Social Security (Claims and Payments) Regulations 1987 for that benefit to be claimed by telephone,

that person may claim council tax benefit by telephone to the telephone number specified by the Secretary of State.

(4BA) A claim for council tax benefit may be made in accordance with paragraph (4B) at any time before a decision has been made on the claim for the benefit referred to in paragraph (4)(a).

(4BB) If the Secretary of State agrees, where a person, in accordance with regulation 32 of the Social Security (Claims and Payments) Regulations 1987 (information to be given and changes to be notified)—

- (a) furnishes the Secretary of State with such information or evidence as he may require; or
- (b) notifies the Secretary of State of any change of circumstances,

(a) S.I. 2006/216.

(b) Relevant amending instruments are S.I. 2006/2967 and S.I.2007/2911.

(c) Paragraph (4B) was inserted by S.I. 2006/2967.

that person may claim council tax benefit in the same manner in which the information or evidence was furnished or the notification was given.

(4BC) If the Secretary of State agrees, where a person, in accordance with regulation 24 of the Jobseeker's Allowance Regulations (provision of information and evidence)—

- (a) furnishes the Secretary of State with such certificates, documents and other evidence as he may require; or
- (b) notifies the Secretary of State of any change of circumstances,

that person may claim council tax benefit in the same manner as the certificate, document and other evidence was furnished or the notification was given.

(4BD) A claim for council tax benefit may be made in accordance with paragraphs (4BB) or (4BC) at any time before a decision has been made on the award of benefit to which the information, evidence, certificates, documents or notification relates.”;

(d) in paragraph (4C)(a)—

- (i) after “by telephone” insert “in accordance with paragraph (4A)”; and
- (ii) omit “or the Secretary of State”;

(e) after paragraph (4C) insert—

“(4CA) The relevant authority or the Secretary of State may determine that a claim made by telephone in accordance with paragraphs (4B) to (4BD) is not a valid claim unless the person making the claim approves a written statement of his circumstances, provided for the purpose by the Secretary of State.”;

(f) for paragraph (4D)(b), substitute—

“A claim made by telephone in accordance with paragraphs (4A) to (4BD) is defective unless the relevant authority or the Secretary of State is provided with all the information requested during that telephone call.”;

(g) in paragraph (4E)(c)—

- (i) omit “or (4B)”; and
- (ii) for “is to”, substitute “must”;

(h) after paragraph (4E) insert—

“(4EA) Where a claim made by telephone in accordance with paragraphs (4B) to (4BD) is defective—

- (a) the Secretary of State may provide the person making it with an opportunity to correct the defect;
- (b) the relevant authority must provide the person making it with an opportunity to correct the defect if the Secretary of State has not already done so unless it considers that it has sufficient information to determine the claim.”;

(i) in paragraph (4F)(d) for “of the date it”, substitute “of the date the relevant authority or the Secretary of State”;

(j) after paragraph (4F) insert—

“(4G) If the person does not correct the defect within one month, or such longer period as the relevant authority considers reasonable, of the date the relevant authority or the Secretary of State last drew attention to it, the relevant authority may treat the claim as if it had been duly made in the first instance where it considers that it has sufficient information to determine the claim.”;

(k) in paragraph (5), omit the words “and to regulation 54 (date of claim where claim sent or delivered to a gateway office)”;

(a) Paragraph (4C) was inserted by S.I. 2006/2967.
(b) Paragraph (4D) was inserted by S.I. 2006/2967.
(c) Paragraph (4E) was inserted by S.I. 2006/2967
(d) Paragraph (4F) was inserted by S.I. 2006/2967.

(l) for paragraph (5)(d)(a), substitute—

“(d) except where sub-paragraph (a), (b) or (c) is satisfied, in a case where a properly completed claim is received in a designated office, an authorised office, county offices or an appropriate DWP office within one month, or such longer period as the relevant authority considers reasonable, of the date on which—

(i) a claim form was issued to the claimant following the claimant first notifying, by whatever means, a designated office, an authorised office or an appropriate DWP office of an intention to make a claim; or

(ii) a claimant notifies, by whatever means, a designated office, an authorised office or an appropriate DWP office of an intention to make a claim by telephone in accordance with paragraphs (4A) to (4BD),

the date of first notification; and”.

(5) Omit regulation 54 (date of claim where claim sent or delivered to a gateway office).

(6) Omit regulation 55 (date of claim where claim sent or delivered to an office of a designated authority).

(7) For regulation 58(b) (amendment and withdrawal of claim), substitute—

“58.—(1) A person who has made a claim may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.

(2) Where the claim was made by telephone in accordance with paragraphs (4A) to (4BD) of regulation 53, the amendment may also be made by telephone.

(3) Any claim amended in accordance with paragraph (1) or (2) shall be treated as if it had been amended in the first instance.

(4) A person who has made a claim may withdraw it at any time before a decision has been made on it by notice to the designated office.

(5) Where the claim was made by telephone in accordance with paragraphs (4B) to (4BD) of regulation 53, the withdrawal may also be made by telephone to the telephone number specified by the Secretary of State.

(6) Any notice of withdrawal given in accordance with paragraph (4) or (5) shall have effect when it is received.”.

(8) In regulation 59 (duty to notify changes of circumstances), omit paragraphs (2) and (6).

(9) After regulation 82 (supply of information: extended payments (severe disablement allowance and incapacity benefit)), insert—

“Supply of benefit administration information between authorities

83.—(1) For the purpose of section 122E(3) of the Administration Act (supply of information between authorities administering benefit) the circumstances in which information is to be supplied and the information to be supplied are set out in paragraph (2).

(2) Where the functions of an authority (“Authority A”) relating to council tax benefit are being exercised, wholly or in part, by another authority (“Authority B”)—

(a) Authority A must supply to Authority B any benefit administration information it holds which is relevant to, and necessary for, Authority B to exercise those functions; and

(b) Authority B must supply to Authority A any benefit administration information it holds which is relevant to, and necessary for, Authority A to exercise those functions.

(a) A relevant amending instrument is S.I. 2007/2911.

(b) Regulation 58 was substituted by S.I. 2007/719.

(3) The circumstances in which paragraph (2) applies include cases where the authorities have agreed to discharge functions jointly.

(4) In paragraph (2), “Authority A” and “Authority B” include any person authorised to exercise functions relating to council tax benefit on behalf of the authority in question.

(5) This regulation shall not apply if the person or authority to whom the information is to be supplied agrees that the information need not be supplied.”.

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

27th August 2008

Anne C. McGuire
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 Regulations 2006, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, the Council Tax Benefit Regulations 2006 and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

Regulation 2(4) amends the Housing Benefit Regulations 2006 to provide that a person can make a claim for housing benefit by telephone to the Secretary of State where the person is also making a claim by telephone to the Secretary of State for other specified social security benefits. The specified benefits are income support, incapacity benefit, state pension credit, jobseeker's allowance and employment and support allowance. The regulation also provides that a person can make a claim for housing benefit by telephone when, in relation to other social security benefits, he provides by telephone to the Secretary of State information, evidence, certificates or documents, or notifies any change of circumstance.

Regulation 2(4) also provides for the powers of the local authority and the Secretary of State to decide if a claim by telephone for housing benefit has been validly made, what is a defective claim and the consequences of a claim being defective, and the date on which a telephone claim is treated as made.

Regulation 2(7) amends the provision which allows a person to amend or withdraw a claim for housing benefit so as to include provision for claims made by telephone to the Secretary of State.

Regulation 2(9) removes the reference to the penalties for the criminal offence committed by a landlord or their agent who fails to supply relevant information required by a local authority. The penalties are now set out in the relevant primary legislation, section 113 of the Social Security Administration Act 1992.

Regulation 2(10) sets out the circumstances in which information relating to housing benefit and council tax benefit is to be supplied between local authorities, including persons authorised to exercise benefit functions on behalf of those authorities. These regulations also set out the information to be supplied.

Regulation 2 also removes obsolete references to the now defunct ONE pilot and gateway offices.

Regulations 3 to 5 make equivalent amendments to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, the Council Tax Benefit Regulations 2006 and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, except that there is no offence in either of the latter two sets of regulations equivalent to that set out in regulation 2(9).

An impact assessment has not been published for this instrument as it has no impact on the private or voluntary sectors.

STATUTORY INSTRUMENTS

2008 No. 2299

SOCIAL SECURITY

**The Housing Benefit and Council Tax Benefit (Amendment)
Regulations 2008**

£5.50

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E2979 9/2008 182979T 19585