

**2008 No. 2824**

**SOCIAL SECURITY**

**The Housing Benefit and Council Tax Benefit (Amendment)  
(No. 2) Regulations 2008**

*Made* - - - - - *29th October 2008*

*Laid before Parliament* *6th November 2008*

*Coming into force in accordance with regulation 1*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(d) and (e), 130A(3) and (4), 137(1) and 175(1) to (3) of the Social Security Contributions and Benefits Act 1992(a) and sections 5(1)(a), 6(1)(a), 75(3) and (4), 76(1) to (3), 134(1A), 189(1), (3), (4) and (6) and 191 of the Social Security Administration Act 1992(b).

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

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

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (Amendment) (No. 2) Regulations 2008.

(2) Subject to paragraph (3) these Regulations shall come into force on 6th April 2009.

(3) Regulations 8 and 9 shall come into force on 27th November 2008.

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- (a) 1992 (c.4). Section 130A was inserted by section 30(2) of the Welfare Reform Act 2007 (c.5). Section 137(1) is an interpretation provision and is cited because of the meaning of the word “prescribed”. Section 175(1) was amended by section 2 of, and paragraph 29(1) and (2) of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2). Section 175(1A) was inserted by section 2 of, and paragraph 29(1) and (3) of Schedule 3 to, that Act.
- (b) 1992 (c.5). Section 75(3) was substituted by section 71 of the Child Support, Pensions and Social Security Act 2000 (c.19). Section 76(1) was amended by section 103 of, and paragraph 15(1) and (3) of Schedule 9 to, the Local Government Finance Act 1992 (c.14) and section 180(1) of, and paragraph 175(3) of Schedule 13 to, the Local Government etc. (Scotland) Act 1994 (c.39). Section 76(2) was amended by sections 103 and 117(2) of, and paragraph 15(2) of Schedule 9 and Schedule 14 to, the Local Government Finance Act 1992. Section 76(3) was amended by section 103 of, and paragraph 15(1) and (3) of Schedule 9 to, the Local Government Finance Act 1992. Section 134(1A) was inserted by section 121 of, and paragraph 1(2) of Schedule 12 to, the Housing Act 1996 (c.52). Section 189(1) was amended by paragraph 57(1) and (2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999, paragraph 109(a) of Schedule 7 and Schedule 8 to the Social Security Act 1998 (c.14) and Schedule 6 to the Tax Credits Act 2002 (c.21). Section 189(4) and (6) was amended by paragraph 109(c) and (e) of Schedule 7 and Schedule 8 to the Social Security Act 1998. Section 191 was amended by paragraph 10 of Schedule 5 to the Welfare Reform Act 2007 and is cited for the meaning of the word “prescribed”.
- (c) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992.
- (d) Section 176(1) was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992, section 69(6) of the Child Support, Pensions and Social Security Act 2000 and paragraph 3(4) of Schedule 13 to the Housing Act 1996.

(4) In these Regulations—

“the Housing Benefit Regulations” means the Housing Benefit Regulations 2006(a);

“the Housing Benefit (State Pension Credit) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(b);

“the Council Tax Benefit Regulations” means the Council Tax Benefit Regulations 2006(c);

“the Council Tax Benefit (State Pension Credit) Regulations” means the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(d).

### **Amendments to the Housing Benefit Regulations relating to certain types of dwelling**

2.—(1) The Housing Benefit Regulations shall be amended as follows.

(2) In regulation 91A(e) (cases in which payments to a housing authority are to take the form of a rent allowance) after paragraph (2) add—

“(3) Where—

- (a) the occupier of a caravan, mobile home or houseboat is liable to make payments in respect of that caravan, mobile home or houseboat and housing benefit in relation to those payments takes the form of a rent allowance; and
- (b) the occupier is also liable to make payments to a housing authority in respect of the site on which that caravan or mobile home stands, or in respect of the mooring to which the houseboat is attached,

housing benefit in respect of payments to the housing authority shall take the form of a rent allowance.”.

(3) In Schedule 2 (excluded tenancies) for paragraph 3, substitute—

“3.—(1) Subject to sub-paragraph (2), this paragraph applies where the landlord is—

- (a) a registered housing association;
- (b) a county council, with regard to gypsies’ and travellers’ caravan or mobile home sites and caravans or mobile homes provided on those sites; or
- (c) a housing authority, with regard to caravan or mobile home sites or houseboat moorings, payments in respect of which are to take the form of a rent allowance in accordance with regulation 91A(3).

(2) Sub-paragraph (1) does not apply where the local authority considers that—

- (a) the claimant occupies a dwelling larger than is reasonably required by the claimant and any others who occupy that dwelling (including any non-dependants of the claimant and any person paying rent to the claimant); or
- (b) the rent payable for that dwelling is unreasonably high.

(3) Where the circumstances set out in head (a) or (b) of sub-paragraph (2) exist, the authority must state this in their application for a determination.

(4) In this Schedule “gypsies and travellers” means—

- (a) persons with a cultural tradition of nomadism or of living in a caravan; and
- (b) all other persons of a nomadic habit of life, whatever their race or origin, including—
  - (i) such persons who, on grounds only of their own or their family’s or dependant’s educational or health needs or old age, have ceased to travel temporarily or permanently; and

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(a) S.I. 2006/213.

(b) S.I. 2006/214.

(c) S.I. 2006/215.

(d) S.I. 2006/216.

(e) Regulation 91A was inserted by regulation 2 of S.I. 2006/644.

- (ii) members of an organised group of travelling show people or circus people (whether or not travelling together as such).”.

(4) In paragraph (3) the reference to Schedule 2 means Schedule 2 to the Housing Benefit Regulations—

- (a) as substituted by regulation 18 of the Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007(a); and
- (b) as in force for cases to which regulation 18 of those Regulations does not have effect (non-local housing allowance cases).

### **Amendments to the Housing Benefit (State Pension Credit) Regulations relating to certain types of dwelling**

**3.—**(1) The Housing Benefit (State Pension Credit) Regulations shall be amended as follows.

(2) In regulation 72A(b) (cases in which payments to a housing authority are to take the form of a rent allowance) after paragraph (2) add—

“(3) Where—

- (a) the occupier of a caravan, mobile home or houseboat is liable to make payments in respect of that caravan, mobile home or houseboat and housing benefit in relation to those payments takes the form of a rent allowance; and
- (b) the occupier is also liable to make payments to a housing authority in respect of the site on which that caravan or mobile home stands, or in respect of the mooring to which the houseboat is attached,

housing benefit in respect of payments to the housing authority shall take the form of a rent allowance.”.

(3) In Schedule 2 (excluded tenancies) for paragraph 3, substitute—

“**3.—**(1) Subject to sub-paragraph (2), this paragraph applies where the landlord is—

- (a) a registered housing association;
- (b) a county council, with regard to gypsies’ and travellers’ caravan or mobile home sites and caravans or mobile homes provided on those sites; or
- (c) a housing authority, with regard to caravan or mobile home sites or houseboat moorings, payments in respect of which are to take the form of a rent allowance in accordance with regulation 72A(3).

(2) Sub-paragraph (1) does not apply where the local authority considers that—

- (a) the claimant occupies a dwelling larger than is reasonably required by the claimant and any others who occupy that dwelling (including any non-dependants of the claimant and any person paying rent to the claimant); or
- (b) the rent payable for that dwelling is unreasonably high.

(3) Where the circumstances set out in head (a) or (b) of sub-paragraph (2) exist, the authority must state this in their application for a determination.

(4) In this Schedule “gypsies and travellers” means—

- (a) persons with a cultural tradition of nomadism or of living in a caravan; and
- (b) all other persons of a nomadic habit of life, whatever their race or origin, including—
  - (i) such persons who, on grounds only of their own or their family’s or dependant’s educational or health needs or old age, have ceased to travel temporarily or permanently; and

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(a) S.I. 2007/2868.

(b) Regulation 72A was inserted by regulation 3 of S.I. 2006/644.

- (ii) members of an organised group of travelling show people or circus people (whether or not travelling together as such).”.

(4) In paragraph (3) the reference to Schedule 2 means Schedule 2 to the Housing Benefit (State Pension Credit) Regulations—

- (a) as substituted by regulation 18 of the Housing Benefit (State Pension Credit) (Local Housing Allowance and Information Sharing) Amendment Regulations 2007(a); and
- (b) as in force for cases to which regulation 18 of those Regulations does not have effect (non-local housing allowance cases).

#### **Amendments to the Housing Benefit Regulations relating to overpayments**

**4.**—(1) The Housing Benefit Regulations shall be amended as follows.

(2) In regulation 101 (person from whom recovery may be sought)—

- (a) for paragraph (2)(b) substitute—

“(2) For the purposes of section 75(3)(b) of the Administration Act (recovery from such other person, as well as or instead of the person to whom the overpayment was made), where recovery of an overpayment is sought by a relevant authority—

- (a) subject to paragraph (1) and where sub-paragraph (b) or (c) does not apply, the overpayment is recoverable from the claimant as well as the person to whom the payment was made, if different;
- (b) in a case where an overpayment arose in consequence of a misrepresentation of or a failure to disclose a material fact (in either case, whether fraudulently or otherwise) by or on behalf of the claimant, or by or on behalf of any person to whom the payment was made, the overpayment is only recoverable from any person who misrepresented or failed to disclose that material fact instead of, if different, the person to whom the payment was made; or
- (c) in a case where an overpayment arose in consequence of an official error where the claimant, or a person acting on the claimant’s behalf, or any person to whom the payment was paid, or any person acting on their behalf, could reasonably have been expected, at the time of receipt of the payment or of any notice relating to that payment, to realise that it was an overpayment, the overpayment is only recoverable from any such person instead of, if different, the person to whom the payment was made.”;

- (b) in paragraph (3A)(c) for “paragraph (2)(a)(ii)” substitute “paragraph (2)(c)”; and

- (c) omit paragraph (4)(d).

(3) In regulation 102(e) (method of recovery)—

- (a) in paragraph (1) for “regulation 105” substitute “regulation 105(1)”; and

- (b) after paragraph (1) insert—

“(1ZA) Where an overpayment is recoverable from a claimant who has one or more partners, a relevant authority may recover the overpayment by deduction from any housing benefit payable to the claimant’s partner, or where it is unable to do so, may request the Secretary of State to recover any recoverable overpayment from the benefits prescribed in regulation 105(1B) (recovery of overpayments from prescribed benefits), provided that the claimant and that partner were a couple both at the time of the overpayment and when the deduction is made.”;

- (c) in paragraph (2)—

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(a) S.I.2007/2869.

(b) Paragraph (2) was substituted by S.I. 2005/2904, as amended by S.I. 2006/217.

(c) Paragraph (3A) was inserted by S.I. 2005/2904, as amended by S.I. 2006/217.

(d) Paragraph (4) was amended by S.I. 2005/2904, as amended by S.I. 2006/217.

(e) Regulation 102 was amended by S.I. 2005/2904, as amended by S.I. 2006/217.

- (i) after “permitted by paragraph (1)” insert “or (1ZA)”; and
  - (ii) after “a claimant” insert “or a claimant’s partner”; and
  - (d) in paragraph (3) for “who has” substitute “or a claimant’s partner, where the claimant has”.
- (4) In regulation 105(a) (recovery of overpayments from prescribed benefits)—
- (a) in paragraph (1) before “For the purposes of section 75(4) of the Administration Act” insert “Subject to paragraph (1B).”;
  - (b) after paragraph (1A) insert—
    - “(1B) For the purposes of section 75(4) of the Administration Act, where recovery is sought from the claimant’s partner under regulation 102(1ZA), the benefits prescribed by this regulation are—
    - (a) income support under Part 7 of the Act;
    - (b) income-based jobseeker’s allowance;
    - (c) state pension credit; and
    - (d) income-related employment and support allowance.”; and
  - (c) for paragraph (2) substitute—
    - “(2) The Secretary of State shall, if requested to do so by an authority under regulation 102 (method of recovery), recover a recoverable overpayment by deduction from any of the benefits prescribed in paragraph (1) or (in the case of the claimant’s partner) any of the benefits prescribed in paragraph (1B) provided that the Secretary of State is satisfied that—
    - (a) a recoverable overpayment has been made in consequence of a misrepresentation of or a failure to disclose a material fact (in either case whether fraudulently or otherwise), by a claimant or any other person to whom a payment of housing benefit has been made; and
    - (b) the person from whom it is sought to recover the overpayment is receiving sufficient amounts of any of the benefits prescribed in paragraph (1) or (1B) (as the case may be) to enable deductions to be made for the recovery of the overpayment.”.

**Amendments to the Housing Benefit (State Pension Credit) Regulations relating to overpayments**

- 5.—(1) The Housing Benefit (State Pension Credit) Regulations shall be amended as follows.
- (2) In regulation 82 (person from whom recovery may be sought)—
- (a) for paragraph (2)(b) substitute—
    - “(2) For the purposes of section 75(3)(b) of the Administration Act (recovery from such other person, as well as or instead of the person to whom the overpayment was made), where recovery of an overpayment is sought by a relevant authority—
    - (a) subject to paragraph (1) and where sub-paragraph (b) or (c) does not apply, the overpayment is recoverable from the claimant as well as the person to whom the payment was made, if different;
    - (b) in a case where an overpayment arose in consequence of a misrepresentation of or a failure to disclose a material fact (in either case, whether fraudulently or otherwise) by or on behalf of the claimant, or by or on behalf of any person to whom the payment was made, the overpayment is only recoverable from any person who misrepresented or failed to disclose that material fact instead of, if different, the person to whom the payment was made; or

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(a) Regulation 105 was amended by S.I. 2005/2904, as amended by S.I. 2006/217, and S.I. 2008/1082.  
 (b) Paragraph (2) was substituted by S.I. 2005/2904, as amended by S.I. 2006/217.

- (c) in a case where an overpayment arose in consequence of an official error where the claimant, or a person acting on the claimant’s behalf, or any person to whom the payment was paid, or any person acting on their behalf, could reasonably have been expected, at the time of receipt of the payment or of any notice relating to that payment, to realise that it was an overpayment, the overpayment is only recoverable from any such person instead of, if different, the person to whom the payment was made.”;
  - (b) in paragraph (3A)(a) for “paragraph (2)(a)(ii)” substitute “paragraph (2)(c)”; and
  - (c) omit paragraph (4)(b).
- (3) In regulation 83(c) (method of recovery)—
- (a) in paragraph (1) for “regulation 86” substitute “regulation 86(1)”; and
  - (b) after paragraph (1) insert—
    - “(1ZA) Where an overpayment is recoverable from a claimant who has one or more partners, a relevant authority may recover the overpayment by deduction from any housing benefit payable to the claimant’s partner, or where it is unable to do so, may request the Secretary of State to recover any recoverable overpayment from the benefits prescribed in regulation 86(1B) (recovery of overpayments from prescribed benefits), provided that the claimant and that partner were a couple both at the time of the overpayment and when the deduction is made.”;
  - (c) in paragraph (2)—
    - (i) after “permitted by paragraph (1)” insert “or (1ZA)”; and
    - (ii) after “a claimant” insert “or a claimant’s partner”; and
  - (d) in paragraph (3) for “who has” substitute “or a claimant’s partner, where the claimant has”.
- (4) In regulation 86(d) (recovery of overpayments from prescribed benefits)—
- (a) in paragraph (1) before “For the purposes of section 75(4) of the Administration Act” insert “Subject to paragraph (1B),”;
  - (b) after paragraph (1A) insert—
    - “(1B) For the purposes of section 75(4) of the Administration Act, where recovery is sought from the claimant’s partner under regulation 83(1ZA), the benefits prescribed by this regulation are—
    - (a) income support under Part 7 of the Act;
    - (b) income-based jobseeker’s allowance;
    - (c) state pension credit; and
    - (d) income-related employment and support allowance.”; and
  - (c) for paragraph (2) substitute—
    - “(2) The Secretary of State shall, if requested to do so by an authority under regulation 83 (method of recovery), recover a recoverable overpayment by deduction from any of the benefits prescribed in paragraph (1) or (in the case of the claimant’s partner) any of the benefits prescribed in paragraph (1B) provided that the Secretary of State is satisfied that—
    - (a) a recoverable overpayment has been made in consequence of a misrepresentation of or a failure to disclose a material fact (in either case whether fraudulently or otherwise), by a claimant or any other person to whom a payment of housing benefit has been made; and

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(a) Paragraph (3A) was inserted by S.I. 2005/2904, as amended by S.I. 2006/217.  
 (b) Paragraph (4) was amended by S.I. 2005/2904, as amended by S.I. 2006/217.  
 (c) Regulation 83 was amended by S.I. 2005/2904, as amended by S.I. 2006/217.  
 (d) Regulation 86 was amended by S.I. 2005/2904, as amended by S.I. 2006/217, and S.I. 2008/1082.

- (b) the person from whom it is sought to recover the overpayment is receiving sufficient amounts of any of the benefits prescribed in paragraph (1) or (1B) (as the case may be) to enable deductions to be made for the recovery of the overpayment.”.

**Amendments to the Council Tax Benefit Regulations relating to overpayments**

- 6.—(1) The Council Tax Benefit Regulations shall be amended as follows.
- (2) For regulation 85 (person from whom recovery may be sought) substitute—
  - “85. Recoverable excess benefit shall be due from the claimant or the person to whom the excess benefit was allowed.”.
- (3) In regulation 86 (methods of recovery)—
  - (a) in paragraph (1) omit “due from any person referred to in regulation 85 (person from whom recovery may be sought)”;
  - (b) in paragraph (2)—
    - (i) omit “either”; and
    - (ii) for “person to whom regulation 85(1) refers” substitute “claimant or the person to whom the excess benefit was allowed”; and
  - (c) for paragraph (3) substitute—
    - “(3) Where recoverable excess benefit cannot be recovered by either of the methods specified in paragraph (2), the relevant authority may request the Secretary of State to recover the outstanding excess—
      - (a) from the benefits prescribed in regulation 90(1); or
      - (b) where the claimant has one or more partners, from the benefits prescribed in regulation 90(1A), provided that the claimant and that partner were a couple both at the time the excess benefit was allowed and when the deduction is made.”.
- (4) In regulation 90(a) (recovery of excess benefit from prescribed benefits)—
  - (a) in paragraph (1) before “For the purposes of section 76(3)(c) of the Administration Act” insert “Subject to paragraph (1B),”;
  - (b) after paragraph (1A) insert—
    - “(1B) For the purposes of section 76(3)(c) of the Administration Act, where recovery is sought from the claimant’s partner under regulation 86(3)(b), the benefits prescribed by this regulation are—
      - (a) income support under Part 7 of the Act;
      - (b) income-based jobseeker’s allowance;
      - (c) state pension credit; and
      - (d) income-related employment and support allowance.”; and
  - (c) for paragraph (2) substitute—
    - “(2) The Secretary of State shall, if requested to do so by a relevant authority under regulation 86 (methods of recovery), recover excess benefit by deduction from any of the benefits prescribed in paragraph (1) or (in the case of the claimant’s partner) any of the benefits prescribed in paragraph (1B) provided that the Secretary of State is satisfied that—
      - (a) recoverable excess benefit has been allowed in consequence of a misrepresentation of or a failure to disclose a material fact (in either case whether fraudulently or otherwise), by a claimant or any other person to whom council tax benefit has been allowed; and

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(a) Regulation 90 is amended by S.I. 2005/2904, as amended by S.I. 2006/217, and S.I. 2008/1082.

- (b) the person from whom it is sought to recover the excess benefit is receiving sufficient amounts of any of the benefits prescribed in paragraph (1) or (1B) (as the case may be) to enable deductions to be made for the recovery of the excess.”.

**Amendment to the Council Tax Benefit (State Pension Credit) Regulations relating to overpayments**

7.—(1) The Council Tax Benefit (State Pension Credit) Regulations shall be amended as follows.

(2) For regulation 70 substitute—

“70. Recoverable excess benefit shall be due from the claimant or the person to whom the excess benefit was allowed.”.

(3) In regulation 71 (methods of recovery)—

(a) in paragraph (1) omit “due from any person referred to in regulation 70 (person from whom recovery may be sought)”;

(b) in paragraph (2)—

(i) omit “either”; and

(ii) for “person to whom regulation 70(1) refers” substitute “claimant or the person to whom the excess benefit was allowed”; and

(c) for paragraph (3) substitute—

“(3) Where recoverable excess benefit cannot be recovered by either of the methods specified in paragraph (2), the relevant authority may request the Secretary of State to recover the outstanding excess—

(a) from the benefits prescribed in regulation 75(1); or

(b) where the claimant has one or more partners, from the benefits prescribed in regulation 75(1A), provided that the claimant and that partner were a couple both at the time the excess benefit was allowed and when the deduction is made.”.

(4) In regulation 75(a) (recovery of excess benefit from prescribed benefits)—

(a) in paragraph (1) before “For the purposes of section 76(3)(c) of the Administration Act” insert “Subject to paragraph (1B),”;

(b) after paragraph (1A) insert—

“(1B) For the purposes of section 76(3)(c) of the Administration Act, where recovery is sought from the claimant’s partner under regulation 71(3)(b), the benefits prescribed by this regulation are—

(a) income support under Part 7 of the Act;

(b) income-based jobseeker’s allowance;

(c) state pension credit; and

(d) income-related employment and support allowance.”; and

(c) for paragraph (2) substitute—

“(2) The Secretary of State shall, if requested to do so by a relevant authority under regulation 71 (methods of recovery), recover excess benefit by deduction from any of the benefits prescribed in paragraph (1) or (in the case of the claimant’s partner) any of the benefits prescribed in paragraph (1B) provided that the Secretary of State is satisfied that—

(a) recoverable excess benefit has been allowed in consequence of a misrepresentation of or a failure to disclose a material fact (in either case whether fraudulently or otherwise), by a claimant or any other person to whom council tax benefit has been allowed; and

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(a) Regulation 75 was amended by S.I. 2005/2904, as amended by S.I. 2006/217, and S.I. 2008/1082.



- (b) the person from whom it is sought to recover the excess benefit is receiving sufficient amounts of any of the benefits prescribed in paragraph (1) or (1B) (as the case may be) to enable deductions to be made for the recovery of the excess.”.

**Amendment of the Housing Benefit (State Pension Credit) Regulations**

8. Regulation 64(13)(a) of the Housing Benefit (State Pension Credit) Regulations (time and manner in which claims are to be made) is omitted.

**Amendment of the Council Tax Benefit (State Pension Credit) Regulations**

- 9.—(1) The Council Tax Benefit (State Pension Credit) Regulations are amended as follows.
- (2) In regulation 53(1ZA)(b) (time and manner in which claims are to be made), for “twelve months” substitute “three months”.
- (3) Regulation 53(13)(c) is omitted.

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

29th October 2008

*Kitty Ussher,*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

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(a) Regulation 64(13)(b) was amended by regulation 5(3) of S.I. 2008/2424.  
(b) Regulation 53(1ZA) was inserted by regulation 5(2)(a) of S.I. 2006/2967.  
(c) Regulation 53(13) was amended by regulation 7(2) of S.I. 2008/2424.

## 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.

With regard only to the Housing Benefit Regulations 2006 and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, these Regulations make amendments so as to change the form in which housing benefit is paid to persons living in caravans or mobile homes on rented sites, or houseboats in certain circumstances, and to make new provision with respect to gypsies and travellers.

Regulation 2(2) amends the Housing Benefit Regulations 2006 to change the form in which housing benefit is paid in certain cases where a person pays a rent in respect of the site on which a caravan or mobile home stands, or charges for the mooring to which a houseboat is attached, and also separately pays a rent in respect of that caravan or mobile home on that site or houseboat attached to that mooring.

The amendment provides for the housing benefit payable by a housing authority in respect of site or mooring charges for housing authority owned sites or moorings to be paid in the form of rent allowance instead of rent rebate. The effect is that housing benefit in the form of a rent allowance is payable for caravans, mobile homes or houseboats and also their sites or moorings.

Regulation 2(3) amends paragraph 3 of Schedule 2 to the Housing Benefit Regulations so as to exclude caravan and mobile home sites owned and run by county councils for gypsies and travellers, and also caravans and mobile homes that are provided by county councils on those sites, from the general requirement in regulation 14 to refer claims for a rent allowance to a rent officer. A further amendment is made so that payments of housing benefit by a housing authority for housing authority owned sites or moorings that take the form of rent allowance in accordance with the changes in regulation 2(2) shall also be excluded from the requirement to refer to a rent officer. These tenancies will still be referred to a rent officer in exceptional cases.

Regulation 3 makes equivalent changes to the corresponding provisions of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

Regulation 4 amends the Housing Benefit Regulations 2006 as follows:

- regulation 101 is amended so as to set out more clearly from whom an overpayment is recoverable;
- regulation 102 is amended to permit recovery of an overpayment, where the claimant has one or more partners, by deduction from any housing benefit payable to the partner or where the relevant authority is unable to do so, from the benefits prescribed in regulation 105, provided that they were a couple both at the time of the overpayment and when the deduction is made; and
- regulation 105 is amended so as to insert prescribed benefits from which recovery may be sought from the claimant's partner.

Regulation 5 makes equivalent amendments to regulations 82, 83 and 86 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

Regulation 6 amends the Council Tax Benefit Regulations 2006 as follows:

- regulation 85 is amended so as to omit recovery of excess benefit by deduction from council tax benefit allowed to the claimant's partner;
- regulation 86 is amended so that where a claimant has one or more partners, recovery of excess benefit may now be made by deduction from the prescribed benefits specified in

regulation 90 provided that the claimant and that partner were a couple both at the time the excess benefit was allowed and when the deduction is made; and

- Regulation 90 is amended so as to insert prescribed benefits from which recovery may be sought from the claimant's partner.

Regulation 7 makes equivalent amendments to regulations 70, 71 and 75 of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

Regulation 8 omits regulation 64(13) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 as this provision is no longer needed.

Regulation 9 amends the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Regulation 9(2) amends the time for claiming council tax benefit set out in regulation 53(1ZA) of those Regulations from 12 months to 3 months. Regulation 9(3) omits regulation 53(13) of those Regulations as this provision is no longer needed.

A full impact assessment has not been published for this instrument as it has no impact on the private or voluntary sectors. There is no additional impact on the public sector.

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STATUTORY INSTRUMENTS

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**2008 No. 2824**

**SOCIAL SECURITY**

The Housing Benefit and Council Tax Benefit (Amendment)  
(No. 2) Regulations 2008

£5.00