

EXPLANATORY MEMORANDUM TO

The Housing Benefit and Council Tax Benefit (Amendment) (No. 3) Regulations 2008

2008 No.2987

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument amends the Housing Benefit and Council Tax Benefit Regulations¹ to support new procedures which involve joint working between the Department for Work and Pensions, local authorities and the Tax Credit Office to streamline the benefit claims process for people moving in and out of work.

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

3.1 None.

4. Legislative Context

4.1 The Housing Benefit and Council Tax Benefit regulations contain provisions relating to the time and manner in which a claim should be made, supply of evidence and information and the duty to notify changes of circumstances. These provisions currently support some joint working in that claims to Housing Benefit and Council Tax Benefit can be delivered to the Department for Work and Pensions. The Social Security (Claims and Information) Regulations 2007 (SI no 2007/2911) also require the local authority to use information that has been used by the Department in connection with a claim or award without verifying its accuracy. However, legislation does not currently provide for the Department to identify whether the Housing Benefit or Council Tax Benefit claim is properly made before sending it on to the local authority or to request information on the local authority's behalf. Nor does it allow a customer to satisfy the requirement to notify a change of circumstances affecting Housing Benefit or Council Tax Benefit by informing the Department. The purpose of the instrument is to change that position for those people moving in and out of work.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

¹ Housing Benefit Regulations 2006, Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, Council Tax Benefit Regulations 2006 and Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

6. European Convention on Human Rights

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

7. Policy background

- *What is being done and why*

7.1 The provisions in this instrument give a statutory basis in Housing Benefit and Council Tax Benefit for new in and out of work processes which have been tested in six local authority areas. The in and out of work processes are a response to the Department's October 2006 Customer Insight report which showed that the arrangements for people moving between in work and out of work benefits were:

- Complicated, with on average 30 contacts with up to three different agencies (Jobcentre Plus, the Tax Credit Office and the local authority);
- taking too long, typically 26 working days from leaving work to getting benefits; and
- repetitive with 30 percent of information asked for more than once.

7.2 The in and out of work processes are intended to minimise customer contacts with different agencies. To this end, the Department gathers all the information needed for Housing Benefit, Council Tax Benefit and Tax Credits and shares the information through secure communication channels with the local authority and the Tax Credit Office. To some extent this activity is already supported in the Housing Benefit and Council Tax Benefit Regulations. There is provision allowing claims for Housing Benefit and Council Tax Benefit to be delivered or sent to an office of the Department for Work and Pensions. In practice, the Department collects information for the Housing Benefit and Council Tax Benefit claims but if the customer does not supply all the information the claim may be defective because it is incomplete. The local authority has to make further contact with the customer once it receives the claim. This leads to delays.

7.3 Under the out of work process the Department will endeavour to collect all the information and evidence that the local authority needs and, if the claim is still defective, tell the customer what information or evidence they still need to provide to the local authority.

7.3 Currently, where a customer starts work and, as a result, is no longer entitled to Jobseeker's Allowance or Income Support, the customer needs to notify the local authority. The local authority has to make its own enquiries once it is aware of the change in circumstances and, if this is some time after the event, benefit is likely to be overpaid.

7.4 Under the into work process the Department provides a telephone number to unemployed customers claiming Jobseeker's Allowance and Income Support which they can use to report that they are starting work and to provide information needed by the local authority and the Tax Credit Office to make a decision on in work entitlements. This information is passed on straight away by secure e-mail and the Department tells the customer to pass evidence to support ongoing entitlement to the

local authority. This service is only available to customers who use the telephone number or attend the Jobcentre as a conversation is necessary to obtain all the information required.

7.5 Regulation 2(2) amends regulations 83, of the Housing Benefit Regulations 2006 so that:

- where a claim for Housing Benefit is sent to the Department for Work and Pensions and it is incomplete, the Department can request the claimant to provide to the local authority the information or evidence that is needed to make the claim complete; and
- where the claimant supplies the information or evidence to support a new claim to the local authority within a month of the Department's request (or longer if the local authority considers it reasonable) the local authority can treat the claim as validly made.

7.6 Regulation 2(3) amends regulation 86 of the Housing Benefit Regulations 2006 so that there is explicit provision that:

- the claimant supplies information to the local authority within a month of the Department having requested it; and
- the Department may request information or evidence that it considers the local authority may require to determine the claimant's continuing entitlement to Housing Benefit when the claimant or the claimant's partner starts work.

7.7 Regulation 2(4) amends regulation 88 of the Housing Benefit Regulations 2006 to make it clear that where there is a telephone number published for that purpose a claimant who is receiving Jobseeker's Allowance or Income Support can report to the Department for Work and Pensions that entitlement to those benefits will end because the claimant or his partner is starting work.

7.8 Regulations 3, 4 and 5 make the same changes to the equivalent provisions in the Council Tax Benefit Regulations 2006, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 and Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

7.9 The operation of the in to work process is dependent upon a secure e-mail connection between central and local government using the Government Secure Extranet. The Department is currently working to have all local authorities connected by October 2009. The in and out of work processes are therefore being phased in from December 2008 with a planned completion date of December 2009.

- ***Consolidation***

7.10 It is not intended to consolidate the relevant regulations at present. A consolidated text will be available online via the DWP website in due course. The website is accessible to the public free of charge.

8. Consultation outcome

8.1 The four Local Authority Associations have been formally consulted on these regulations and three submitted comments. They are supportive of the policy intention and a small drafting change has been made in response to a point they raised. The Social Security Advisory Committee decided that it did not want these Regulations formally referred to it. The Department has engaged with customers and representative groups in the course of developing the in and out of work processes.

9. Guidance

9.1 Guidance on the changes to Regulations will be issued to local authority decision makers. Training material for staff in the Department and local authorities has also been developed to support the roll out of the in and out of work processes. Publicity will be available for customers.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is minimal. Local authorities could achieve small savings through reduced customer contacts (less than £5m). The additional information gather will result in a small cost (estimated to be less than £3m per year) for the Department for Work and Pensions.

10.3 A full impact assessment has not been published for this instrument.

Regulating small business

11.1 The legislation does not apply to small business.

11. Monitoring & review

12.1 The in and out of work pilots were monitored over the first six months so that a full evaluation could be presented to Ministers. The evaluation included research with customers and staff. The results from this evaluation confirm that:

- the customer experience has been significantly improved;
- customers are receiving payments more quickly; and
- there is increased confidence to take up short-term work.

12.2 The Department will continue to monitor the effectiveness of the in and out of work processes through performance data and customer research.

13. Contact

13.1 Clare Mitton at the Department for Work and Pensions (Tel: 0207 449 5336) or email: clare.mitton@dwp.gsi.gov.uk can answer any queries regarding the instrument.