

**EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (DEEMED INCOME FROM CAPITAL)
REGULATIONS 2009
2009 No. 1676**

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 increases the capital thresholds for Pension Credit and for pension age Housing Benefit and Council Tax Benefit, raising the level above which capital is taken into account for benefit purposes.

2.2 These thresholds are currently £6,000 (£10,000 for people permanently residing in care homes). The £6,000 threshold will rise to £10,000 from November 2009. The existing £10,000 threshold for those residing in care homes will remain unchanged.

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

3.1 None.

4. Legislative Context

4.1 This instrument delivers a commitment made by the Chancellor in the Budget 2009 speech to increase the £6,000 capital threshold for Pension Credit and pension age Housing Benefit and Council Tax Benefit to £10,000 for all from November 2009.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain. Equivalent provision will be made for Northern Ireland by statutory rule.

6. European Convention on Human Rights

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

7. Policy Background

- *What is being done and why*

- 7.1 Currently, in Pension Credit and pension age Housing Benefit and Council Tax Benefit the first £6,000 of a customer's capital is ignored when calculating entitlement. For those customers residing permanently in a care home or other specified accommodation, the first £10,000 of capital is ignored. For people with capital above these levels there is an expectation that they make a contribution to their weekly living expenses from this capital. The contribution is £1 per week for each £500 (or part of £500) of capital held above £6,000 (or £10,000 for those in a care home).
- 7.2 The Chancellor announced in the 2009 Budget that the £6,000 capital threshold will be increased in Pension Credit and pension age Housing Benefit/Council Tax Benefit to £10,000 from November 2009. The threshold of £10,000 for those living permanently in care homes will not change. This change is designed to address concerns that falling interest rates are having an adverse effect on pensioners who tend to rely more heavily on savings.
- 7.3 The effect of raising the threshold will mean that the vast majority of pensioners in receipt of Pension Credit and/or Housing Benefit/Council Tax Benefit will have all of their capital ignored in the calculation of their benefit.
- 7.4 It is estimated that around half a million Pension Credit customers around 200,000 Council Tax Benefit customers and around 50,000 Housing Benefit customers will see an increase in their entitlement following this change.
- 7.5 This change is also likely to make some people newly entitled to these benefits and it is estimated that there could be around 20,000 new claims to Pension Credit, around 20,000 new claims to Council Tax Benefit and less than 5,000 new claims to Housing Benefit.
- 7.6 Whilst the majority of existing customers will benefit from this change, there is a possibility that a very small number (between zero and 2000) could lose out. There may be some Pension Credit customers who are receiving Savings Credit only, with income that doesn't qualify for the Savings Credit such as spousal maintenance payments or certain social security benefits, who also have capital above £6000, who could see a small reduction in their Pension Credit entitlement as a result of this change. However, we cannot predict if there will be anyone in this position and if anyone will in fact lose out. Whilst any loss experienced

may be offset by a consequential increase in Housing Benefit and Council Tax Benefit, we cannot estimate how many will also be in this position.

- 7.7. Any such losses would be between 20p and £1.60 per week. To compensate people for any loss in Pension Credit, anyone who does lose some benefit will be given a £40 one-off extra-statutory payment, regardless of the actual level of loss. This one-off payment has been set at £40 as this more than covers the amount that a person could lose in benefit between the introduction of the change and April 2010. This payment is in lieu of Pension Credit and as such is non taxable and will not be taken into account in Pension Credit, Housing Benefit or Council Tax Benefit. Payments of this kind are disregarded for 12 months for benefit purposes so it is not expected that anyone will see their entitlement affected from this compensation.

- ***Consolidation***

- 7.8 Informal consolidation of this instrument will be included in due course in the Department's "the law relating to Social Security" (the Blue Volumes) which are available at no cost to the public on the internet at: <http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/>
There are no plans to consolidate the Pension Credit regulations, or the Housing Benefit and Council Tax Benefit regulations.

8. Consultation outcome

- 8.1 These measures were presented to the Social Security Advisory Committee (SSAC) on 6th May 2009. The Committee decided that it did not wish to formally refer these regulations for consultation.
- 8.2 These changes are beneficial to customers who have capital exceeding £6000 and are neutral for customers with capital below this amount, and were agreed as part of the 2009 Budget negotiations. No formal consultation has taken place in relation to the Pension Credit change, however, the Department has advised a number of external stakeholder organisations of the changes via the Department's Policy and Strategy Forum and the Pension, Disability and Carer Service Advisory Forum which together include members from Help the Aged, Age Concern, Citizens Advice, Child Poverty Action Group, the Disability Alliance and Carers UK amongst others.
- 8.3 The Government have also consulted the Local Authority Association in relation to the Housing Benefit and Council Tax Benefit changes. This consultation ended on 11th June 2009. We received replies from three of the Associations, each of which welcomed the changes whilst raising some issues regarding the tariff income band and why the changes were limited to

pension age customers only. We have responded to the Associations concerned in relation to these issues.

9. Guidance

9.1 Leaflets will be up-dated to reflect the new rules in due course and the change will also be publicised on the Department's website. Guidance bulletins will be issued to operational staff and to Local Authorities in advance of the changes taking effect, to advise them of the new rules together with details of arrangements for dealing with any compensation payments that may be necessary.

10. Impact

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

10.2 This instrument has a negligible impact on public sector administration for both the Department for Work and Pensions and local authorities. We estimate that there will be additional administration costs to the Department for Work and Pensions and local authorities in the first year of implementation of under £2m.

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

11. Regulating small business

11.1 This legislation does not apply to small business.

12. Monitoring and review

12.1 The impact of this change on the numbers and characteristics of those affected will be monitored through the routine collection and publication of administrative data. DWP also commissions and publishes a wide range of qualitative and quantitative survey data.

13. Contact

Paul Needham at the Department for Work and Pensions (Tel: 0113 232 4949. email: paul.needham@dwp.ghsi.gov.uk can answer queries regarding this statutory instrument.