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STATUTORY INSTRUMENTS

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**2003 No. 2275**

**SOCIAL SECURITY**

**The Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2003**

<i>Made</i>	- - - -	<i>7th September 2003</i>
<i>Laid before Parliament</i>		<i>12th September 2003</i>
<i>Coming into force</i>		
<i>for the purposes of regulation 2</i>		<i>5th October 2003</i>
<i>for all other purposes</i>		<i>6th October 2003</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by the provisions specified in the Schedule to these Regulations and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of the authorities concerned <sup>M1</sup> and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it <sup>M2</sup>, hereby makes the following Regulations:

**Marginal Citations**

**M1** See section 176(1) of the [Social Security Administration Act 1992 \(c. 5\)](#).

**M2** See sections 170 and 173(1)(b) of the Social Security Administration Act 1992.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2003 and shall come into force—

- (a) for the purposes of regulation 2, on 5th October 2003; and
- (b) for all other purposes, on 6th October 2003.

(2) In these Regulations—

<sup>F1</sup> ...

“the Decisions and Appeals Regulations” means the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 <sup>M3</sup>;

<sup>F1</sup> ...

**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2003. (See end of Document for details)

F1 ...

**F1** Words in reg. 1(2) revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Sch. 3, 4)

**Marginal Citations**

**M3** [S.I. 2001/1002](#).

**Amendment of the State Pension Credit Regulations**

**F2** 2. ....

**F2** Regs. 2, 3 revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Sch. 3, 4)

**Amendment of the Housing Benefit Regulations**

3.—<sup>F2</sup>(1) The Housing Benefit Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 4(5) (remunerative work), after the words “income support”, insert “, state pension credit” .

(3) In regulation 63(7) <sup>M4</sup> after sub-paragraph (d), insert the following sub-paragraph—  
“(dd) he is a full-time student and the claimant or his partner has attained the age of 65; or”.]

**F2** Regs. 2, 3 revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Sch. 3, 4)

**Marginal Citations**

**M4** Regulation 63(7) was amended by [S.I. 1990/546](#), 1991/387, 1992/50 and 1998/563.

**Amendment of the Council Tax Benefit Regulations**

4.—<sup>F3</sup>(1) The Council Tax Benefit Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 4(5) (remunerative work), after the words “income support” insert “, state pension credit” .

(3) In regulation 52(8), after sub-paragraph (b); insert—  
“(c) who is on state pension credit and would not be treated as being in remunerative work, if they were not in receipt of that benefit”.]

**F3** Reg. 4 revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Sch. 3, 4)

## Amendment of the Decisions and Appeals Regulations

5.—(1) The Decisions and Appeals Regulations shall be amended in accordance with the following paragraphs.

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “the Act” insert—

““the 1998 Act” means the Social Security Act 1998<sup>M5</sup>;”;

(b) after the definition of “Decisions and Appeals Regulations 1999” insert—

““family” has the same meaning as in section 137 of the Social Security Contributions and Benefits Act 1992<sup>M6</sup>;”.

(3) In regulation 4 (revision of decisions) after paragraph (7A)<sup>M7</sup> insert—

“(7B) Where—

- (a) the relevant authority makes an original decision awarding housing benefit or council tax benefit to a claimant; and
- (b) entitlement to a relevant benefit within the meaning of section 8(3) of the 1998 Act or to an increase in the rate of that relevant benefit is awarded to the claimant or a member of his family for a period which includes the date on which the original decision took effect,

the relevant authority may revise or further revise that original decision at any time.

(7C) Where entitlement to housing benefit or council tax benefit has ceased (“decision A”) because entitlement to a relevant benefit within the meaning of section 8(3) of the 1998 Act has ceased (“decision B”), decision A may be revised at any time if the entitlement to the relevant benefit to which decision B applies has been reinstated in consequence of a decision made under [F<sup>4</sup>section 9 or 10 of the 1998 Act or on an appeal under section 12 of that Act”].

(4) In regulation 7(2) (decisions superseding earlier decisions) after sub-paragraph (h)<sup>M8</sup> add—

“(i) where—

- (i) the claimant has been awarded entitlement to housing benefit or council tax benefit; and
- (ii) subsequent to the first day of the period to which that entitlement relates, the claimant or a member of his family becomes entitled to an award of a relevant benefit within the meaning of section 8(3) of the 1998 Act or an increase in the rate of that relevant benefit.”.

(5) In regulation 8 (date from which a decision superseding an earlier decision takes effect) after paragraph (13)<sup>M9</sup> add—

“(14) Where the decision is superseded in accordance with regulation 7(2)(i) the superseding decision shall take effect from the date on which entitlement arises to the relevant benefit referred to in regulation 7(2)(i)(ii) or to an increase in the rate of that relevant benefit.”

**F4** Words in reg. 5(3) inserted (5.10.2003) by [The Housing Benefit and Council Tax Benefit \(State Pension Credit and Miscellaneous Amendments\) \(Amendment\) Regulations 2003 \(S.I. 2003/2526\)](#), regs. 1, 2

### Marginal Citations

**M5** 1998 c. 14.

**M6** 1992 c. 4.

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**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2003. (See end of Document for details)

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- M7** Paragraph (7A) was inserted by [S.I. 2002/490](#).
- M8** Sub-paragraph (h) was inserted by [S.I. 2002/490](#).
- M9** Paragraph (13) was inserted by [S.I. 2003/1338](#).

7th September 2003

*Andrew Smith*  
Secretary of State,  
Department for Work and Pensions

## SCHEDULE

## PROVISIONS CONFERRING POWERS EXERCISED IN MAKING THESE REGULATIONS

<i>Short title</i>	<i>Provision</i>	<i>Relevant amendments</i>
Social Security Contributions and Benefits Act 1992	Section 123(1)(d) and (e)	Local Government Finance Act 1992 M10 , Schedule 9, paragraph 1(1)
	Section 130(4) Section 131(10)(a)	
	Section 135(1), (5) and (6)	Tax Credits Act 2002 M11 , Schedule 6
	Section 136(3), (4) and (5)(b) Section 136A	State Pension Credit Act 2002 M12 , Schedule 2, paragraph 3
	Section 137(1) M13 and (2)(c), (d) and (k)	Jobseekers Act 1995 M14 , Schedule 2, paragraph 35(3)
	Section 175(1), (3) and (4)	Social Security Contributions (Transfer of Functions, etc.) Act 1999 M15 , Schedule 3, paragraphs 29(1), (2) and (4)
Social Security Administration Act 1992 M16	Section 5(1)(b) Section 6(1)(b)  Section 189(1) and (4)	Local Government Finance Act 1992, Schedule 9, paragraph 12(1)(a)  Social Security Act 1998, Schedule 7, paragraph 109(a) and (c), and Schedule 8
Social Security Act 1998	Section 34(2) Section 79(1) and (4) Section 84 <sup>M17</sup>	
Child Support, Pensions and Social Security Act 2000 M18	Paragraphs 3(1), 4(4) and (6), 20(1) and (3) and 23(1) of Schedule 7 M19	

**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2003. (See end of Document for details)

#### Marginal Citations

- M10** 1992 c. 14.
- M11** 2002 c. 21.
- M12** 2002 c. 16.
- M13** Section 137(1) is cited for the meaning of the word “prescribed”.
- M14** 1995 c. 18.
- M15** 1999 c. 2.
- M16** 1992 c. 5.
- M17** Section 84 is cited for the meaning of the word “prescribed”.
- M18** 2000 c. 19.
- M19** Paragraph 23(1) is cited for the meaning of the word “prescribed”.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend instruments which make provision concerning housing benefit and council tax benefit under Part VII of the Social Security Contributions and Benefits Act 1992, in connection with the introduction of state pension credit under the State Pension Credit Act 2002 on 6th October 2003.

Regulation 2 amends the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (“the 2003 Regulations”) which make provision as respects entitlement to housing benefit and council tax benefit in relation to persons who have attained the qualifying age for state pension credit. (Many of the amendments are made in consequence of amendments made to the State Pension Credit Regulations 2002 (S.I. 2002/1792) by the State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274).) Amendments are made in particular in relation to the treatment of persons as being, or not being, in remunerative work; the determination of the applicable amount in the case of a person who is a lone parent; the determination of the disabled child premium in a case where the child has recently died; the treatment as income of amounts received by the claimant from sub-letting; for statutory paternity pay and statutory adoption pay to be treated in the same way as statutory maternity pay in the calculation of child care charges; to make further provision in connection with deductions to be made in relation to non-dependants living in the household; and to provide for the date on which changes of circumstances are to have effect. Changes are also made in the provision in the First Schedule set out in Schedule 2 to the 2003 Regulations for specified categories of earnings to be disregarded (in particular in relation to couples where one partner is in a specified occupation); in the Second Schedule set out in that Schedule 2 for other income to be disregarded (in particular specified payments to war widows and war widowers); and in the Third Schedule set out in that Schedule 2 for capital to be disregarded (in particular in relation to compensation payments received in respect of the non-payment of certain benefits). Regulation 2 also makes minor and technical amendments in the 2003 Regulations.

Regulations 3 and 4 amend, respectively, the Housing Benefit (General) Regulations 1987 and the Council Tax Benefit (General) Regulations 1992 in connection with the treatment of persons on state pension credit as being, or not being, in remunerative work for certain specified purposes. Regulation 5 amends the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 to make further provision in relation to the revision, and further revision, of

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decisions awarding housing benefit or council tax benefit which are affected by a change in a person's entitlement to another benefit, and for the supersession of such decisions, including provision for the date on which the superseding decision is to take effect.  
These Regulations do not impose a charge on business.

**Changes to legislation:**

There are currently no known outstanding effects for the The Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2003.