

2004 No. 290

SOCIAL SECURITY

The Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2004

Made - - - - *5th February 2004*
Laid before Parliament *12th February 2004*
Coming into force - - *5th March 2004*

The Secretary of State, in exercise of the powers conferred upon him by sections 136(1), (3), (4) and (5), 136A(3) and (4) and 137(1) of the Social Security Contributions and Benefits Act 1992(a) and paragraphs 4(6), 20(1)(b) and 23(1) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(b) and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of the authorities concerned(c) and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(d), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2004 and shall come into force on 5th March 2004.

Amendment of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003

2.—(1) The Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003(e) shall be amended in accordance with the following paragraphs.

(2) In regulation 8 (housing benefit – income and capital), after paragraph (7) of substituted regulation 36 (notional income) add—

“(8) In the case of a claimant who has, or whose partner has, an award of state pension credit comprising only the savings credit, where a relevant authority treats the claimant as possessing any benefit (other than housing benefit) at the altered rate in accordance with paragraph (7), that authority shall—

(a) determine the income and capital of that claimant in accordance with regulation 23(1) (calculation of claimant’s income in savings credit only cases) where the

(a) 1992 c. 4. Section 136A was inserted into the Social Security Contributions and Benefits Act 1992 by the State Pension Credit Act 2002 (c. 16), section 14 and Schedule 2, paragraph 3. Section 137(1) is cited for the meaning ascribed to the word prescribed.
(b) 2000 c. 19. Paragraph 23(1) of Schedule 7 is cited for the meaning ascribed to the word prescribed.
(c) See section 176(1) of the Social Security Administration Act 1992 (c. 5).
(d) See sections 170 and 173(1)(b) of the Social Security Administration Act 1992.
(e) S.I. 2003/325. The relevant amending instrument is S.I. 2003/2275.

calculation or estimate of that income and capital is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter; and

- (b) treat that claimant as possessing such income and capital at the altered rate by reference to the period referred to in paragraph (7)(a) or (b), as the case may be.”.

(3) In regulation 17 (council tax benefit – income and capital), after paragraph (7) of substituted regulation 28 (notional income) add—

“(8) In the case of a claimant who has, or whose partner has, an award of state pension credit comprising only the savings credit, where a relevant authority treats the claimant as possessing any benefit (other than council tax benefit) at the altered rate in accordance with paragraph (7), that authority shall—

- (a) determine the income and capital of that claimant in accordance with regulation 15(1) (calculation of claimant’s income in savings credit only cases) where the calculation or estimate of that income and capital is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter; and
- (b) treat that claimant as possessing such income and capital at the altered rate by reference to the date selected by the relevant authority to apply in its area, for the purposes of establishing the period referred to in paragraph (7).”.

Amendment of the Housing Benefit (General) Regulations 1987

3. In regulation 68B of the Housing Benefit (General) Regulations 1987(a) (change of circumstances where state pension credit payable), after paragraph (7) insert—

“(7A) Where the change of circumstances is an amendment of these Regulations as they apply to persons to whom regulation 2 of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (housing benefit regulations) applies, that change, subject to regulation 69(7) (calculation of weekly amounts), shall take effect as follows—

- (a) where the amendment is made by an order under section 150 of the Social Security Administration Act 1992(b) (annual up-rating of benefits)—
 - (i) in a case in which the claimant’s weekly amount of eligible rent falls to be calculated in accordance with regulation 69(2)(b), from 1st April;
 - (ii) in any other case, from the first Monday in April, in the year in which that order comes into force;
- (b) in respect of any other amendment, from the date on which the amendment of these Regulations comes into force in the particular case,

and references in this paragraph to these Regulations are to these Regulations as modified in their application to those persons.”.

Amendment of the Council Tax Benefit (General) Regulations 1987

4. In regulation 59B of the Council Tax Benefit (General) Regulations 1992(c) (change of circumstances where state pension credit in payment), after paragraph (7) insert—

(a) S.I. 1987/1971. Regulation 68B was inserted into these Regulations by S.I. 2003/325. The relevant amending instrument is S.I. 2003/2275.
(b) 1992 c. 5.
(c) S.I. 1992/1814. Regulation 59B was inserted into these Regulations by S.I. 2003/325. The relevant amending instrument is S.I. 2003/2275.

“(7A) Where the change of circumstances is an amendment of these Regulations as they apply to persons to whom regulation 12 of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 applies (council tax benefit regulations), that change shall take effect from the date on which the amendment to these Regulations, as modified in their application to those persons, comes into force.”.

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

5th February 2004

Chris Pond
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 and Council Tax Benefit (State Pension Credit) Regulations 2003 (S.I. 2003/325), the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) and the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814).

Regulation 2 amends regulations 8 and 17 of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 to insert a new paragraph (8) into the substituted regulations 36 and 28, respectively. This paragraph requires relevant authorities to determine the claimant's income and capital in savings credit only cases in the same way for cases where benefits other than housing benefit are annually uprated, as they do in other cases, and to treat the claimant as possessing that income and capital in the same way and for the same period as set out in substituted regulations 36(7) (for housing benefit) and 28(7) (for council tax benefit).

Regulation 3 inserts a new paragraph (7A) into regulation 68B of the Housing Benefit (General) Regulations 1987. This paragraph provides a new effective date for decisions made in consequence of the annual up-rating of benefits and for the purposes of any other change in the those Regulations, as they apply to persons to whom regulation 2 of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 applies.

Regulation 4 inserts a new paragraph (7A) into regulation 59A of the Council Tax Benefit (General) Regulations 1992. This paragraph provides a new effective date for decisions made in consequence of a change in those Regulations as they apply to persons to whom regulation 12 of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 applies.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the cost of business.

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