

2008 No. 1042

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments) (No.2)
Regulations 2008**

Made - - - - - *7th April 2008*

Laid before Parliament *11th April 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), 135(1), 136(3) to (5), 136A(3), 137(1) and (2)(f), (h) and (i), 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a), sections 5(1)(h) and (j), 6(1)(h) and (k), 75(1), (2) and (4), 134, 189(1) and (3) to (6) and 191 of the Social Security Administration Act 1992(b) and sections 10(6), 34(1) and (2), 79(1), (3) and (4) and 84 of the Social Security Act 1998(c).

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

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

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No.2) Regulations 2008.

(2) Subject to paragraph (3), these Regulations shall come into force on 19th May 2008.

(3) Regulations 3(12)(h) and 5(12)(d) shall come into force on 27th October 2008.

(4) In these Regulations—

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- (a) 1992 (c.4). Section 123(1)(e) was substituted by paragraph 1(1) of Schedule 9 to the Local Government Finance Act 1992 (c. 14). Section 136A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act 2002 (c. 16). Section 137(1) is an interpretation provision and is cited because of the meaning of the word “prescribed”. Section 175(1) and (4) was amended by section 2 of, and paragraph 29(1), (2) and (4) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2).
- (b) 1992 (c.5). 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 (c.2), paragraph 109 of Schedule 7 to the Social Security Act 1998 (c. 14) and Schedule 6 to the Tax Credits Act 2002 (c.21). Section 189(4), (5) and (6) was amended by paragraph 109 of Schedule 7 to the Social Security Act 1998. Section 191 is cited for the meaning of the word “prescribed”.
- (c) 1998 (c.14). Section 79(1) was amended by paragraphs 12 and 13(1) and (2) of Schedule 4 to the Tax Credits Act 2002 (c.21). Section 84 is cited for the meaning of “prescribed”.
- (d) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992.
- (e) Section 176(1) was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c.14), section 69(6) of the Child Support, Pensions and Social Security Act 2000 (c.19) and paragraph 3(4) of Schedule 13 to the Housing Act 1996 (c.52).

“the Decisions and Appeals Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations 1999(a);

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

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

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

“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(e); and

“the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations” means the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006(f).

Amendments to the Decisions and Appeals Regulations

2. Regulation 7 of the Decisions and Appeals Regulations shall be amended as follows—

- (a) in sub-paragraph (2)(bc)(g) (date from which a decision superseded under section 10 takes effect), for “sub-paragraph (bd)” substitute “paragraph (2A)”;
- (b) omit sub-paragraph (2)(bd)(h) (date from which a decision superseded under section 10 takes effect); and
- (c) after paragraph (2) (date from which a decision superseded under section 10 takes effect), insert—

“(2A) Paragraph (2)(bc) shall only apply to the disabled person whose benefit is affected by the cessation of payment of carer’s allowance.”

Amendments to the Housing Benefit Regulations

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

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

- (a) in the definition of “concessionary payment”, omit “or the Child Benefit Act 1975”; and
- (b) omit the definition of “person on state pension credit”.

(3) In regulation 7(8)(c)(ii)(i) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) —

- (a) for “Part 3”, substitute “Part 8”; and
- (b) omit “9,10,11,”.

(4) In regulation 28 (treatment of child care charges)—

- (a) for paragraph (11)(a), substitute “the claimant’s applicable amount includes a disability premium on account of the other member’s incapacity;”;
- (b) in paragraph (11)(b), omit “or a higher pensioner premium”; and
- (c) in paragraph (11)(g), for “Department of Health and Social Services for Northern Ireland”, substitute “Department of Health, Social Services and Public Safety in Northern Ireland”.

(a) 1999/991.

(b) 2006/213.

(c) 2006/214.

(d) 2006/215.

(e) 2006/216.

(f) 2006/217.

(g) Sub-paragraph (2)(bc) was inserted by S.I. 2006/2377 and amended by S.I. 2007/2470.

(h) Sub-paragraph (2)(bd) was inserted by S.I. 2007/2470.

(i) Regulation 7(8) was amended by S.I. 2007/2618.

- (5) In regulation 42(a) (notional income), omit paragraphs (3) to (5).
- (6) In regulation 53(1) (students – interpretation)—
- (a) in the definition of “grant” for “paragraph 54”, substitute “paragraph 51”;
 - (b) for the definition of “sandwich course” substitute—

““sandwich course” has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008(b), regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007(c) or regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007(d), as the case may be;”; and
 - (c) in the definition of “student loan” for “Students’ Allowances (Scotland) Regulations 1999”, substitute “Students’ Allowances (Scotland) Regulations 2007(e)”.
- (7) In regulation 56 (full-time students to be treated as not liable to make payments in respect of a dwelling)—
- (a) in sub-paragraph (2)(c) omit “pensioner premium for persons under 75 or, as the case may be, persons 75 or over, higher pensioner premium,”;
 - (b) for sub-paragraph (2)(i)(ii), substitute—

“(ii) an allowance or, as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 4 of the Students’ Allowances (Scotland) Regulations 2007 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority Bursaries (Scotland) Regulations 2007(f), in respect of expenses incurred; or”;
 - (c) in sub-paragraph (2)(i)(iv) for “regulation 13 of the Education (Student Support) Regulations 2005”, substitute “regulation 37 of the Education (Student Support) Regulations 2008”, and for “regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000”, substitute “regulation 39 of the Education (Student Support) Regulations (Northern Ireland) 2007”;
 - (d) in sub-paragraph (2)(i)(v) for “Student Awards Regulations (Northern Ireland) 1999”, substitute “Students Awards Regulations (Northern Ireland) 2003(g)”; and
 - (e) in paragraph (4), omit “refers”.
- (8) In regulation 63(2) (other amounts to be disregarded) for “Students’ Allowance (Scotland) Regulations 1999”, substitute “Students’ Allowances (Scotland) Regulations 2007”.
- (9) In regulation 88(3)(d) (duty to notify changes of circumstances), after “income support” where it first occurs, insert “or income-based jobseeker’s allowance”.
- (10) In Schedule 3(h) (applicable amounts)—
- (a) in paragraph 3(3)(a) and (b), for “sub-paragraph (a) of this paragraph”, substitute “sub-paragraph (1)(a)”;
 - (b) in paragraph 3(4)(e), omit “9, 10, 11 or”;
 - (c) for paragraph 6, substitute—

“6.- The following premiums, namely—

 - (a) a severe disability premium to which paragraph 14 applies;
 - (b) an enhanced disability premium to which paragraph 15 applies;
 - (c) a disabled child premium to which paragraph 16 applies; and

(a) A relevant amending instrument is S.I. 2007/1749.

(b) S.I. 2008/529.

(c) S.S.I. 2007/154.

(d) S.R. (NI) 2007 No. 195.

(e) S.S.I. 2007/153.

(f) S.S.I. 2007/149.

(g) S.R.(NI) 2003 No. 459.

(h) Relevant amending instruments are S.I. 2006/2378, S.I. 2007/688 and S.I. 2008/632.

- (d) a carer premium to which paragraph 17 applies,
may be applicable in addition to any other premium which may apply under this Schedule.”;
- (d) omit paragraphs 9, 10 and 11;
- (e) in paragraph 13 omit from the heading “Higher Pensioner and Disability Premiums” and substitute “Disability Premium”;
- (f) in paragraph 13(3), omit “the higher pensioner premium or”;
- (g) omit paragraph 13(4);
- (h) in paragraph 13(8) for “within the meaning of paragraph 11(5)”, substitute “(a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies, and who again becomes incapable of work for the purposes of Part 12A of the Act)”; and
- (i) in paragraph 20, omit sub-paragraphs (2), (3) and (4).
- (11) In Schedule 4 (sums to be disregarded in the calculation of earnings)—
- (a) for paragraph 3(3)(a), substitute “the claimant is a member of a couple and his applicable amount includes an amount by way of the disability premium under Schedule 3; and”;
- (b) omit paragraph 3(4) and (5);
- (c) in paragraph 9—
- (i) for “one of more employments”, substitute “one or more employments”; and
- (ii) for “paragraph 6”, substitute “paragraph 8”;
- (d) in paragraph 17(2)(b)(iv)(aa) omit “a higher pensioner premium or”, “11 or” and “respectively”;
- (e) in paragraph 17(2)(b)(iv)(bb) omit “higher pensioner premium or”; and
- (f) in paragraph 17(3)(b) for “regulation 28(1)(c)”, substitute “regulation 27(1)(c)”.
- (12) In Schedule 5 (sums to be disregarded in the calculation of income other than earnings)—
- (a) for paragraph 15(b), substitute “a war widow’s pension or any corresponding pension payable to a widower or surviving civil partner;”;
- (b) omit paragraph 18;
- (c) in paragraph 25(1)(a) before “with a scheme”, insert “in accordance”;
- (d) in paragraph 44(1)(a) for “or 12” substitute “or 11” and after “Regulations”, insert “2003”;
- (e) in paragraph 44(1)(b) for “3, 5 and 8” substitute “5, 6 and 10” and for “National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988” substitute “National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007”;
- (f) in paragraph 44(1)(c) for “or 8” substitute “or 11” and after “(Scotland)” insert “(No. 2)”;
- (g) in paragraph 45 omit “8,”; and
- (h) for paragraph 47, substitute—
- “47.—(1) Where a claimant’s applicable amount includes an amount by way of family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the claimant’s former partner, or the claimant’s partner’s former partner.
- (2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

(3) A payment made by the Secretary of State in lieu of maintenance shall, for the purposes of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

47A.—(1) Any payment of child maintenance which is made by the parent of the child or young person except where the person making the payment is the claimant or the claimant’s partner.

(2) In this paragraph, “child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made through or under—

- (a) the Child Support Act 1991;(a)
- (b) the Child Support (Northern Ireland) Order 1991;(b)
- (c) a court order (including a consent order);
- (d) a minute of agreement as registered for execution in the Books of Council and Session or the sheriff court books;

and for this purpose a “young person” is a person referred to in regulation 19 (persons of a prescribed description).

(3) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

(4) A payment made by the Secretary of State in lieu of maintenance shall, for the purposes of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).”.

(13) In Schedule 6 (capital to be disregarded)—

- (a) in paragraph 16 for “paragraph 11 of Schedule 4”, substitute “paragraph 13 of Schedule 4”;
- (b) in paragraph 40(1)(a) for “or 12” substitute “or 11” and after “Regulations”, insert “2003”;
- (c) in paragraph 40(1)(b) for “3, 5 or 8” substitute “5, 6 or 10” and for “National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988” substitute “National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007”;
- (d) in paragraph 40 (1)(c) for “or 8” substitute “or 11”, and after “(Scotland)” insert “(No. 2)”;
- (e) in paragraph 41 omit “8,”;
- (f) in paragraph 43 after “Disabled Persons (Employment) Act 1944” omit “or”; and
- (g) in paragraph 55(1)(b) for “time”, substitute “date”.

Amendments to the Housing Benefit (State Pension Credit) Regulations

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

(2) In regulation 2 (interpretation)—

- (a) in the definition of “concessionary payment”, for “or the Social Security Act 1975” substitute “are charged”.
- (b) omit the definition of “the former regulations”;
- (c) for the definition of “sandwich course”, substitute—

(a) 1991 (c.48)
(b) S.R. (NI) 1991 No. 23.

““sandwich course” has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007 or regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007, as the case may be;”.

(3) In regulation 7(8)(c)(ii) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) for “Part 3”, substitute “Part 8”.

(4) In regulation 22(5)(a) (applicable amounts) for “Schedule 2A”, substitute “Schedule 3”.

(5) In regulation 31(11)(f) (treatment of child care charges), for “sub-paragraph (c) or (d)”, substitute “sub-paragraph (d) or (e)”.

(6) In regulation 67(4)(a)(ii) (evidence and information) for “London Bombings Charitable Relief Fund”, substitute “London Bombings Relief Charitable Fund”.

(7) In regulation 83(4) (method of recovery) for “paragraphs 3 to 8”, substitute “paragraphs 2 to 5 and 7”.

(8) In Schedule 5 (amounts to be disregarded in the calculation of income other than earnings)—

(a) for paragraph 1(b), substitute “a war widow’s pension or any corresponding pension payable to a widower or surviving civil partner;”;

(b) in paragraph 12(4) for “ordinary clothing and footwear”, substitute “ordinary clothing or footwear”.

(9) In paragraph 22(2)(c) of Schedule 6 (capital to be disregarded generally) for “Schedule 5”, substitute “Schedule 6”.

(10) In paragraph 9(1)(e) of Schedule 8 (matters to be included in decision notice) for “rate rebate”, substitute “rent rebate”.

Amendments to the Council Tax Benefit Regulations

5.—(1) The Council Tax Benefit Regulations shall be amended as follows.

(2) In regulation 2(1) (interpretation) omit the definition of “person on state pension credit”.

(3) In regulation 18 (treatment of child care charges)—

(a) for paragraph (11)(a) substitute “the claimant’s applicable amount includes a disability premium on account of the other member’s incapacity”;

(b) in paragraph (11)(b), omit “or a higher pensioner premium”; and

(c) in paragraph (11)(g), for “Department of Health and Social Services for Northern Ireland”, substitute “Department of Health, Social Services and Public Safety in Northern Ireland”.

(4) In regulation 32(b) (notional income), omit paragraphs (3) to (5).

(5) In regulation 43 (students – interpretation)—

(a) for the definition of “sandwich course” substitute—

““sandwich course” has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007(c) or regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007(d), as the case may be;”;

(b) in the definition of “student loan” for “Students’ Allowances (Scotland) Regulations 1999”, substitute “Students’ Allowances (Scotland) Regulations 2007(e)”.

(6) In regulation 50(2) (other amounts to be disregarded) for “Students’ Allowance (Scotland) Regulations 1999”, substitute “Students’ Allowances (Scotland) Regulations 2007”.

(a) A relevant amending instrument is S.I. 2005/2502 (as amended by S.I. 2006/217).

(b) A relevant amending instrument is S.I. 2007/1749.

(c) S.S.I. 2007/154.

(d) S.R.(NI) 2007 No. 195.

(e) S.S.I. 2007/153

(7) In regulation 70 (date of claim where claim sent or delivered to a gateway office) in sub-paragraph (1)(a)(ii) and sub-paragraph (1)(c)(iii) for “4 weeks”, substitute “one month”.

(8) In regulation 71(1) (date of claim where claim sent or delivered to an office of a designated authority) for “4 weeks”, substitute “one month”.

(9) In regulation 72(1) (evidence and information) for “4 weeks”, substitute “one month”.

(10) In Schedule 1(a) (applicable amounts)—

(a) in paragraph 3(4)(e), omit “9, 10, 11 or”;

(b) for paragraph 6, substitute—

“6.-The following premiums, namely—

(a) a severe disability premium to which paragraph 14 applies;

(b) an enhanced disability premium to which paragraph 15 applies;

(c) a disabled child premium to which paragraph 16 applies; and

(d) a carer premium to which paragraph 17 applies,

may be applicable in addition to any other premium which may apply under this Schedule.”;

(c) omit paragraphs 9, 10 and 11;

(d) in paragraph 13 omit from the heading “Higher Pensioner and Disability Premiums” and substitute “Disability Premium”;

(e) in paragraph 13(3), omit “the higher pensioner premium or”;

(f) omit paragraph 13(4);

(g) in paragraph 13(9) for “within the meaning of paragraph 11(5)”, substitute “(a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies, and who again becomes incapable of work for the purposes of Part 12A of the Act)”; and

(h) in paragraph 20—

(i) omit sub-paragraphs (2), (3) and (4); and

(ii) in sub-paragraph (5)(a), omit “or (b)”.

(11) In Schedule 3 (sums to be disregarded in the calculation of earnings)—

(a) for paragraph 3(3)(a) substitute “the claimant is a member of a couple and his applicable amount includes an amount by way of the disability premium under Schedule 1; and”;

(b) omit paragraph 3(4) and (5);

(c) in paragraph 9 for “one of more employments”, substitute “one or more employments”;

(d) in paragraph 16(2)(b)(iv)(aa) omit “a higher pensioner premium or”, “11 or” and “respectively”;

(e) in paragraph 16(2)(b)(iv)(bb) omit “higher pensioner premium or”.

(12) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings)—

(a) for paragraph 16(b), substitute “a war widow’s pension or any corresponding pension payable to a widower or surviving civil partner;”;

(b) in paragraph 45—

(i) for sub-paragraph (1)(a), substitute—

“(a) as respects England, under regulation 5, 6 or 11 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);”;

(ii) for sub-paragraph (1)(b), substitute—

(a) Relevant amending instruments are S.I. 2006/378, 2007/688, 2007/2618 and S.I. 2008/632.

“(b) as respects Wales, under regulation 5, 6 or 10 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);” and

(iii) after sub-paragraph (1)(b), insert—

“(c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No.2) Regulations 2003 (travelling expenses and health service supplies);”;

(c) in paragraph 46 omit “8,”;

(d) for paragraph 48, substitute—

“48.—(1) Where a claimant’s applicable amount includes an amount by way of family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the claimant’s former partner, or the claimant’s partner’s former partner.

(2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

(3) A payment made by the Secretary of State in lieu of maintenance shall, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

48A.—(1) Any payment of child maintenance which is made by the parent of the child except where the person making the payment is the claimant or the claimant’s partner.

(2) In this paragraph, “child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made through or under—

(a) the Child Support Act 1991;

(b) the Child Support (Northern Ireland) Order 1991;

(c) a court order (including a consent order);

(d) a minute of agreement as registered for execution in the Books of Council Session or the sheriff court books,

and for this purpose a “young person” is a person referred to in regulation 9 (persons of a prescribed description for the definition of family in section 137(1) of the Act).

(3) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

(4) A payment made by the Secretary of State in lieu of maintenance shall, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).”;

(e) omit paragraph 64.

(13) In Schedule 5 (capital to be disregarded)—

(a) in paragraph 40(1)(a) for “or 12” substitute “or 11” and after “Regulations”, insert “2003”;

(b) in paragraph 40(1)(b) for “3, 5 or 8” substitute “5, 6 or 10” and for “National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988” substitute “National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007”;

(c) in paragraph 40 (1)(c) for “or 8” substitute “or 11”, and after “(Scotland)” insert “(No. 2)”;

(d) in paragraph 41 omit “8,”;

(e) in paragraph 43 after “Disabled Persons (Employment) Act 1944” omit “or”; and

- (f) in paragraph 57(1)(b) for “time”, substitute “date”.

Amendments to the Council Tax Benefit (State Pension Credit) Regulations

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

- (2) In regulation 2 (interpretation) for the definition of “sandwich course”, substitute—
““sandwich course” has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans)(Scotland) Regulations 2007 or regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007, as the case may be;”.

(3) In regulation 21(11)(f) (treatment of child care charges) for “sub-paragraph (c) or (d)”, substitute “sub-paragraph (d) or (e)”.

- (4) After regulation 53(12)(a) (time and manner in which claims are to be made) insert—
“(12A) Paragraph (12) applies in the case of a person who has attained, or whose partner has attained, the age of 59 years and 35 weeks.”.

(5) In Schedule 3 (amounts to be disregarded in the calculation of income other than earnings)—

- (a) for paragraph 1(b), substitute “a war widow’s pension or any corresponding pension payable to a widower or surviving civil partner;”;
- (b) in paragraph 12(2)(a) and (4) for “ordinary clothing and footwear”, substitute “ordinary clothing or footwear”; and
- (c) after paragraph 24, insert—

“**25.** Where the claimant, or the person who was the partner of the claimant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker’s allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No 3) Regulations 1999 as in force at that date, the whole of his income.”.

(6) After paragraph 26 of Schedule 4 (capital to be disregarded), insert—

“**26A.—**(1) Subject to sub-paragraph (2), where a claimant satisfies the conditions in section 131(3) and (6) of the Act (entitlement to alternative maximum council tax benefit), the whole of his capital.

(2) Sub-paragraph (1) does not apply, where in addition to satisfying the conditions in section 131(3) and (6) of the Act the claimant also satisfies the conditions in section 131(4) and (5) of the Act (entitlement to the maximum council tax benefit).”.

Amendments to the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations

7.—(1) The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations shall be amended as follows.

(2) In paragraph 3(1) of Schedule 3 (transitional and savings provisions) for “paragraph 13(1)(a)(ii) of Schedule 2 to the 1987 Regulations”, substitute “paragraph 12(1)(a)(ii) of Schedule 2 to the 1987 Regulations”.

(3) In paragraph 5(2) of Schedule 3(b)(transitional and savings provisions), in the paragraph inserted as paragraph (4)(b) of regulation 13 of both of the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations, for that paragraph (4)(b) substitute—

“(b) is incapable of work for the purpose of Part 12A of the Act; or ”

(a) Regulation 53(12) was substituted by S.I. 2007/1331.
(b) Paragraph 5 was substituted by S.I. 2007/2870.

(4) In paragraph 9(3)(a)(ii) of Schedule 3 (transitional and savings provisions – care homes), in the paragraph inserted as paragraph (1A)(b) of regulation 9 of the Housing Benefit (State Pension Credit) Regulations for “regulation 83(4)”, substitute “regulation 64(5)”.

(5) In paragraph 3(4) of Schedule 4 (transitory modifications), in the paragraph inserted as paragraph 37 of Schedule 4 to the Council Tax Benefit Regulations for “regulation 11A”, substitute “regulation 10A”.

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

7th April 2008

Mike O'Brien
Minister of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security and Child Support (Decisions and Appeals) Regulations 1999, 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, the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 and the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006.

Regulation 2 amends the Social Security and Child Support (Decisions and Appeals) Regulations 1999 so as to correct the structure of regulation 7(2) of those Regulations.

Regulation 3 amends the Housing Benefit Regulations 2006. In particular—

- It omits references to the pensioner and higher pension premiums, as those who in the past have been in receipt of these premiums will now have their housing benefit calculated under the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. It also makes consequential amendments (paragraphs (3)(b), (4)(a) and (b), (7)(a), (10)(b), (d) to (f), (11)(a), (b), (d) and (e)).
- Similarly paragraphs (5) and (12)(b) omit provisions relating to income derived from pension schemes or an annuity as those covered by these provisions will have their housing benefit calculated under the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.
- Paragraph (2)(a) corrects the definition of concessionary payment and paragraph (2)(b) omits an obsolete definition.
- Paragraphs (6)(b) and (c), (7)(b) to (d) and (8) update references to various Student Support and Student Allowance regulations.
- Paragraphs (12)(g) and (13)(e) omit a redundant reference to the Welfare Food Regulations 1996.
- Paragraph (12)(h) makes amendments with the effect that the child maintenance disregard is to be increased from £15 per week to the full amount.
- Paragraphs (3)(a), (6)(a), (7)(e), (9), (10)(a), (11)(c) and (f), (12)(c), (d) and (f) and (13)(a), (b), (d), (f) and (g) correct errors which were made in the consolidation of the Housing Benefit Regulations, mainly of a typographical nature.

Regulation 4 amends the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. In particular –

- Paragraph (2)(b) omits an obsolete definition and paragraph (2)(c) updates the references to Student Support Regulations in the definition of sandwich course.
- Paragraph (7) amends the list of disregards which enable a higher rate of recovery. This amendment restores the policy intention in place before the regulations for those over the qualifying age for state pension credit were separated from those of working age.
- The remainder of regulation 4 corrects errors of a typographical nature that were made in the consolidation of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

Regulation 5 amends the Council Tax Benefit Regulations 2006. In particular –

- Paragraph (8)(b) omits the pensioner and higher pension premiums as those who in the past have been in receipt of these premiums will now have their housing benefit calculated under the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 and paragraphs (2), (8)(a), (c) to (e) and (9) make consequential amendments.

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