

2004 No. 14

SOCIAL SECURITY

The Housing Benefit and Council Tax Benefit (Abolition of Benefit Periods) Amendment Regulations 2004

Made - - - - - *7th January 2004*
Laid before Parliament *12th January 2004*
Coming into force - *5th April 2004*

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(a), and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(b) hereby makes the following Regulations:-

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (Abolition of Benefit Periods) Amendment Regulations 2004 and shall come into force on 5th April 2004.

(2) In these Regulations—

- “the Act” means the Child Support, Pensions and Social Security Act 2000(c);
- “appropriate relevant authority” has the same meaning as in paragraph 4 of Schedule 7 to the Act;
- “benefit period” has the same meaning as in regulation 66 of the Housing Benefit Regulations and regulation 57 of the Council Tax Benefit Regulations as the case may be, as in force immediately before 5th April 2004;
- “the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992(d);
- “Housing Act functions” has the same meaning as in regulation 2(1) of the Housing Benefit Regulations;
- “relevant authority” has the same meaning as in regulation 2(1) of the Housing Benefit Regulations;
- “the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(e).

(a) See section 176(1)(b) of the Social Security Administration Act 1992.

(b) See section 173(1)(b) of the Social Security Administration Act 1992.

(c) 2000 c. 19.

(d) S.I. 1992/1814.

(e) S.I.1987/1971.

- [Regulation 2 amends regulation 2(1) of S.I.'s 1987/1971 & 1992/1814.]
- [Regulations 3 – 5 amends regulations 7, 11 & 12A of S.I. 1987/1971.]
- [Regulations 6 – 10 amend regulations 21, 21A, 23 & 24 of S.I. 1987/1971 and regulations 13, 13A, 14, 15 & 16 of S.I. 1992/1814.]
- [Regulation 11 substitutes regulation 62A of S.I. 1987/1971.]
- [Regulation 12 inserts regulation 65A into S.I. 1987/1971.]
- [Regulation 13 revokes regulation 66 and 67 of S.I. 1987/1971 and regulations 57 and 58 of S.I. 1992/1814.]
- [Regulation 14 to 16 make various amendment to S.I. 1987/1971.]
- [Regulations 17 and 18 make amendments to regulations 76 and 104 of S.I. 1987/1971 and 66 and 90 of S.I. 1992/1814.]
- [Regulation 19 amends regulation 95 of S.I. 1992/1814.]
- [Regulation 20 amends Schedule 1A of S.I. 1987/1971.]
- [Regulations 21 to 24 amend Schedules 2, 5, 5A & 6 of S.I. 1987/1971 and Schedules 1, 5, 5A, & 6 of S.I. 1992/1814.]
- [Regulation 25 makes various amendments to S.I.'s 1987/1971 and 1992/1814.]

PART 3

Transitional and Saving Provisions

Transitional provision

26.—(1) Paragraphs (2) and (3) apply in the case of a claimant whose or whose partner's benefit period ends before 5th April 2004.

(2) Where paragraph (1) applies, regulation 72(13) and (14) of the Housing Benefit Regulations and regulation 62(14) and (15) of the Council Tax Benefit Regulations shall continue to have effect until 3rd May 2004.

(3) Where paragraph (1) applies and either—

(a) a claimant makes a claim for a further grant of—

(i) housing benefit in accordance with regulation 72(13) of the Housing Benefit Regulations; or

(ii) council tax benefit in accordance with regulation 62(14) of the Council Tax Benefit Regulations,

after 5th April 2004 but no later than 4 weeks after the end of the benefit period; or

(b) a relevant authority invites that claimant to make a claim for a further grant of—

(i) housing benefit in accordance with regulation 72(14) of the Housing Benefit Regulations; or

(ii) council tax benefit in accordance with regulation 62(15) of the Council Tax Benefit Regulations,

and following that invitation, a claim is received from that claimant after 5th April 2004 but no later than 4 weeks after the end of the benefit period,

that claim shall be treated as having been made immediately after the end of the benefit period.

Transitional provision for rent officer referrals

27.—(1) If, on 5th April 2004, more than 52 weeks have elapsed since the relevant authority last made an application in relation to a claimant's, or his partner's, claim for or award of, housing benefit for a determination in accordance with regulation 12A(1) of the Housing Benefit Regulations (requirement to refer to rent officers), the relevant authority shall apply to a rent officer for a determination to be made in pursuance of the Housing Act functions as soon as is practicable after 5th April 2004.

(2) Any application made under paragraph (1) above shall be subject to regulation 12A(1A) and (7A) of the Housing Benefit Regulations.

(3) An appropriate relevant authority may make a decision under paragraph 4 of Schedule 7 to the Act in a case to which paragraph (1) applies.

(4) Where an appropriate relevant authority makes a decision under paragraph (3), which adopts the determination made in consequence of the application made under paragraph (1), the decision shall take effect—

- (a) in a case where the amount of the determination has increased or remains unchanged, on 5th April 2004; or
- (b) in a case where the amount of the determination has decreased, the first day of the benefit week following the date on which that determination was received by a relevant authority.

Saving provision for extended payments

28.—(1) Paragraph (2) shall apply where a person or his partner is—

- (a) treated as having made a claim under regulation 62A of the Housing Benefit Regulations (extended payments) before 5th April 2004; or
- (b) in receipt of an extended payment under that regulation on 5th April 2004.

(2) Where paragraph (1) applies—

- (a) subject to sub-paragraph (b), regulation 62A and Schedule 5A shall apply to him as in force immediately before 5th April 2004;
- (b) sub-paragraphs (a) and (b) of paragraph (5) of regulation 62A shall have effect as if after the word "beneficiary" in each place where it occurs there were inserted the words "or his partner"; and
- (c) sub-paragraph (b) of paragraph (5) of regulation 62A shall have effect as if for the words "deemed to be" until the end of that sub-paragraph there were substituted the words "treated as having been made in respect of a period beginning immediately after the end of the benefit period".

(3) Paragraph (4) shall apply where a person or his partner is—

- (a) treated as having made a claim under regulation 53A of the Council Tax Benefit Regulations (extended payments) before 5th April 2004; or
- (b) in receipt of an extended payment under that regulation on 5th April 2004.

(4) Where paragraph (3) applies—

- (a) subject to sub-paragraph (b), regulation 53A and Schedule 5A shall apply to him as in force immediately before 5th April 2004;
- (b) sub-paragraphs (a) and (b) of paragraph (5) of regulation 53A shall have effect as if after the word "beneficiary" in each place where it occurs there were inserted the words "or his partner"; and
- (c) sub-paragraph (b) of paragraph (5) of regulation 53A shall have effect as if for the words "deemed to be" until the end of that sub-paragraph there were substituted the words "treated as having been made in respect of a period beginning immediately after the end of the benefit period".

[Regulation 29 amends regulation 5 of S.I. 1988/662.]

[Regulation 30 amends regulation 10 of S.I. 1995/1644.]

[Regulation 31 amends regulation 4 of S.I. 1997/852.]

[Regulation 32 amends regulations 9 and 18 of S.I. 2003/325.]

[Regulation 33 revokes parts of S.I. 2003/1338.]

[Regulation 34 amends regulations 7 & 8 of S.I. 2001/1002.]

[Regulation 35 revokes regulations 3, 4 and 7 of S.I. 2003/1583.]

PART 5

Local Housing Allowance

Amendment of the Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2003 and the Housing Benefit Regulations

36.—(1) Regulation 14 of the Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2003(a) is hereby revoked.

(2) In relation to the area of a relevant authority specified in Schedule 1 to the Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2003 the Housing Benefit Regulations shall have effect subject to the following modifications and amendments—

- (a) in regulation 2(1) in the definition of “relevant date”—
 - (i) in sub-paragraph (b) after the words “or relevant information relates” substitute “;” for “; or”;
 - (ii) in sub-paragraph (c) after “regulation 11A(1)(b)(iii) or (iv) relates;” insert “or”; and
 - (iii) after sub-paragraph (c) insert the following sub-paragraph—

“(d) the date on which the period mentioned in regulation 12A(1)(d) or (e) has elapsed.”.
- (b) in regulation 10(3B) after “11A(1)(a) or (b)(i), (ii) or (iii)” insert “or (c)”;
- (c) in regulation 11A(1) after sub-paragraph (b) insert the following sub-paragraph—

“(c) a pathfinder authority is required to apply to a rent officer for a determination in accordance with regulation 12A(1)(d) or (e).”; and
- (d) in regulation 12A after paragraph (2B) insert the following paragraph—

“(2C) An application shall not be required in accordance with paragraph (1)(d) or (e) unless—
 - (a) it is a case to which regulation 11A(2) applies; and
 - (b) a referral would fall to be made were the relevant authority not a pathfinder authority.”.

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

7th January 2004

Chris Pond
Parliamentary Under-Secretary of State,
Department for Work and Pensions

(a) S.I. 2003/2399.

SCHEDULE

Provisions conferring powers exercised in making these Regulations

<i>Column (1) Short title</i>	<i>Column 2 Provision</i>	<i>Column (3) Relevant amendments</i>
Social Security Contributions and Benefits Act 1992(a)	Section 123(1)(d) and (e)	Local Government Finance Act 1992(b), Schedule 9, paragraph 1(1)
	Section 130(2) and (4)	Local Government Finance Act 1992, Schedule 9, paragraph 3, Local Government etc. (Scotland) Act 1994(c), Schedule 13, paragraph 174, Local Government Act 2000(d), section 96
	Section 131(10)	Local Government Finance Act 1992, Schedule 9, paragraph 4
	Section 135(1)	
	Section 136(3), (4) and (5)	
	Section 136A	State Pension Credit Act 2002(e), Schedule 2, paragraphs 1 and 3
	Section 137(1) and (2)(i)	
	Section 175(3), (4), (5) and (6)	Local Government Finance Act 1992, Schedule 9, paragraph 10, Social Security Incapacity for Work Act 1994(f), Schedule 1, paragraph 36, Social Security Contributions (Transfer of Functions, etc.) Act 1999(g), Schedule 3, paragraph 29

(a) 1992 c. 4; section 137(1) is cited because of the meaning ascribed to the word "prescribed".

(b) 1992 c. 14.

(c) 1994 c. 39.

(d) 2000 c. 22.

(e) 2002 c. 16.

(f) 1994 c. 18.

(g) 1999 c. 2.

<i>Column (1) Short title</i>	<i>Column 2 Provision</i>	<i>Column (3) Relevant amendments</i>
Social Security Administration Act 1992(a)	Section 5(1)(a), (b), (d), (e), (h), (i), (j) and (k)	Social Security Act 1998(b), Schedule 7, paragraph 79(1)
	Section 6(1)(a), (b), (d), (e), (h), (i), (k) and (l)	Local Government Finance Act 1992, Schedule 9, paragraph 12(1)(a) and (b) and Schedule 14
	Section 75(2) and (4)	
	Section 76(1) and (2)	Local Government Finance Act 1992, Schedule 9, paragraph 15 and Schedule 14, Local Government etc. (Scotland) Act 1994 Schedule 13, paragraph 175(3)
	Section 128A	Jobseekers Act 1995(c), section 28(2)
	Section 189(4), (5) and (7)	Social Security Act 1998, Schedule 7, paragraph 109
	Section 191	
Housing Act 1996(d)	Section 122(3) and (5)	
Social Security Act 1998	Section 34(1) to (3)	State Pension Credit Act 2002, Schedule 2, paragraphs 40, 41
	Section 79(4) and (6) Section 84	
	Section 79(4) and (6) Section 84	
Child Support, Pensions and Social Security Act 2000(e)	Schedule 7, paragraph 4(4) and (6)	
	Schedule 7, paragraph 23(1)	

(a) 1992 c. 5; section 191 is cited because of the meaning ascribed to the word “prescribe”.

(b) 1998 c. 14; section 84 is cited because of the meaning ascribed to the word “prescribe”.

(c) 1995 c. 18.

(d) 1996 c. 52.

(e) 2000 c. 19; paragraph 23(1) of Schedule 7 is cited because of the meaning ascribed to the word “prescribed”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) (“the Housing Benefit Regulations”) and the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814) (“the Council Tax Benefit Regulations”), the Housing Benefit (Supply of Information) Regulations 1988 (S.I. 1988/662), the Housing Benefit (General) Amendment Regulations 1995 (S.I. 1995/1644), the Housing Benefit and Council Tax Benefit (General) Amendment Regulations 1997 (S.I. 1997/852), the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 (S.I. 2001/1002), the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (S.I. 2003/325), the Housing Benefit and Council Tax Benefit (State Pension Credit) (Abolition of Benefit Periods) Amendment Regulations 2003 (S.I. 2003/1338) and the Social Security (Back to Work Bonus and Lone Parent Run-on) (Amendment and Revocation) Regulations 2003 (S.I. 2003/1589).

These Regulations abolish benefit periods in housing benefit and council tax benefit for all cases. Periodic renewal claims will no longer be required. (Benefit periods have already been abolished for those who have attained the qualifying age for state pension credit).

Part 2 (regulations 2 to 25) contains amendments to the Housing Benefit Regulations and Council Tax Benefit Regulations. Regulations 2 to 4, 6 to 10, 15 to 22 and 24 and 25 amend provisions in the Housing Benefit Regulations and Council Tax Benefit Regulations, omitting references to benefit periods and making consequential changes. Regulation 5 amends regulation 12A of the Housing Benefit Regulations to prescribe further circumstances in which a relevant authority must apply to a rent officer for a determination. Regulation 11 amends the provisions in the Housing Benefit Regulations and Council Tax Benefit Regulations relating to extended payments. Regulation 12 inserts new provisions in the Housing Benefit Regulations and Council Tax Benefit Regulations making provision for a circumstance in which entitlement to benefit ceases. Regulation 13 revokes provisions in the Housing Benefit Regulations and Council Tax Benefit Regulations that relate to the setting and ending of benefit periods. Regulation 14 amends regulation 68 of the Housing Benefit Regulations to specify the date a change of circumstances will take effect where entitlement to housing benefit ends. Regulation 23 amends Schedule 5A to the Housing Benefit Regulations and Schedule 5A to the Council Tax Benefit Regulations consequential upon the changes made by regulation 11 to the extended payment provisions. Regulations 11, 12, 17, 19 and 23 also make amendments consequent on the revocation of the run-on of income support for lone parents (“the lone parent run-on”) from 25th October 2004. Subject to modifications resulting from the abolition of benefit periods, these amendments, and the amendment to regulation 29, make equivalent provision to the amendments made by regulations 3, 4 and 7 of the Social Security (Back to Work Bonus and Lone Parent Run-on) (Amendment and Revocation) Regulations 2003 due to come into force on 25th October 2004. Regulations 3, 4 and 7 remove the special rules for housing benefit and council tax benefit extended payments for lone parents due to the revocation of the lone parent run-on and are revoked by regulation 35 of these Regulations.

Part 3 (regulations 26 to 28) contains transitional and saving provisions. Regulation 26 contains transitional provisions for renewal claims for housing benefit and council tax benefit. Regulation 27 contains transitional provisions for rent officer referrals. Regulation 28 saves regulation 62A of, and Schedule 5A to the Housing Benefit Regulations and regulation 53A of, and Schedule 5A to the Council Tax Benefit Regulations for claimants who are treated as having claimed an extended payment or are in receipt of an extended payment on the date that these Regulations come into force.

Part 4 (regulations 29 to 35) amends other Regulations. Regulation 29 amends provisions in the Housing Benefit (Supply of Information) Regulations 1988, relating to the supply, by one authority to another, of information relating to extended payments, consequential upon the abolition of benefit periods and the lone parent run-on. Regulation 30 amends the savings provision in regulation 10 of the Housing Benefit (General) Amendment Regulations 1995, substituting for references to benefit periods references to awards of housing benefit. Regulation 31 amends regulation 4 of the Housing Benefit and Council Tax Benefit (General) Amendment Regulations 1997 making changes consequential upon the abolition of benefit periods to retain transitional protection. Regulation 32 revokes regulations 9(b) and 18(b) of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 which disapplied provisions relating to the setting and ending of benefit periods which are revoked by these Regulations. Regulation 33 revokes Parts 3, 4 and 5 (with listed exceptions which apply only to state pension credit cases) of the Housing Benefit and Council Tax Benefit (State Pension Credit) (Abolition of Benefit Periods) Amendment Regulations 2003. Regulation 34 amends regulations 7 and 8 of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 to provide new effective dates for cases where a decision is superseded for a change of circumstances and that change is brought about because a rent officer's determination applied for by a relevant authority pursuant to regulation 12A (1)(d) or (e) is adopted in the decision. Regulation 35 revokes regulations 3, 4 and 7 of the Social Security (Back to Work Bonus and Lone Parent Run-on) (Amendment and Revocation) Regulations 2003.

Part 5 (regulation 36) revokes regulation 14 of the Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2003 which made modifications and amendments in relation to relevant dates for persons living in the area of a relevant authority specified in Schedule 1 to the Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2003 who had reached the qualifying age for state pension credit. It also amends the Housing Benefit Regulations to make such modifications and amendments for all cases to which the new arrangements apply for determining eligible housing costs for the purposes of claims to housing benefit made by persons living in those areas.

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