

1992 No. 1909

SOCIAL SECURITY

The Council Tax Benefit (Transitional) Order 1992

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| <i>Made</i> - - - - | <i>3rd August 1992</i> |
| <i>Laid before Parliament</i> | <i>10th August 1992</i> |
| <i>Coming into force</i> - - | <i>31st August 1992</i> |

The Secretary of State for Social Security in exercise of the powers conferred by section 114 of the Local Government Finance Act 1992(a) and of all other powers enabling him in that behalf hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Council Tax Benefit (Transitional) Order 1992 and shall come into force on 31st August 1992.

(2) In this Order unless the context otherwise requires—

“the Administration Act” means the Social Security Administration Act 1992(b)

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992(c);

“the 1992 Regulations” means the Council Tax Benefit (General) Regulations 1992(d);

“the 1989 Regulations” means the Community Charge Benefits (General) Regulations 1989(e);

“the 1987 Regulations” means the Housing Benefit (General) Regulations 1987(f);

“appropriate authority” means—

(a) in England and Wales, the billing authority to which Part I of the Local Government Finance Act 1992 refers,

(b) in Scotland, the levying authority to which Part II of that Act refers;

“community charge benefits” means the benefits of that name to which section 123(1) of the Contributions and Benefits Act refers;

“council tax benefit” means the benefit of that name to which section 123(1) of the Contributions and Benefits Act refers(g);

“housing benefit” means the benefit of that name to which section 123(1) of the Contributions and Benefits Act refers;

“the relevant date” means 1st April 1993;

and other expressions have the same meanings as in the 1992 Regulations.

(a) 1992 c. 14.

(b) 1992 c. 5.

(c) 1992 c. 4.

(d) S.I. 1992/1814.

(e) S.I. 1989/1321.

(f) S.I. 1987/1971.

(g) Section 123(1) was amended by the Local Government Finance Act 1992 Schedule 9 paragraph 1 which substituted “council tax benefit” for “community charge benefits” subject to a saving in respect of community charge benefits in section 118(4).

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(3) Unless the context otherwise requires, in this Order a reference in an article to a numbered paragraph is a reference to the paragraph in that article bearing that number.

Transitional provision for claims

2.—(1) A claim for housing benefit under the 1987 Regulations or for community charge benefits under the 1989 Regulations made to the appropriate authority at any time in the period beginning with 31st August 1992 and ending with 31st March 1993, may in addition be treated as a claim for council tax benefit.

(2) Except in cases to which article 3 applies, where an appropriate authority is of the opinion that unless there is a change of circumstances a person will satisfy the conditions of entitlement for council tax benefit on the relevant date, it may invite him to claim council tax benefit from that date.

(3) Any claim for council tax benefit made under this Order or under the 1992 Regulations in the period prior to 1st April 1993, shall be treated as made in respect of a benefit period beginning on the relevant date, except where the claim is in respect of a period beginning on a later date, and regulation 62(10) of the 1992 Regulations (8 week time limit on claims in advance of entitlement) shall not apply to a claim so treated.

(4) A claim for community charge benefits under the 1989 Regulations made but not determined before the relevant date—

- (a) shall remain effective, in respect of any period before that date, as a claim for benefit under those Regulations; and
- (b) shall be treated, in respect of any later period, as a claim for council tax benefit under the 1992 Regulations.

(5) Subject to the provisions of this Order, any claim for council tax benefit under the 1992 Regulations made or treated as made in accordance with paragraphs (3) or (4)(b) may be determined before the relevant date in accordance with those Regulations.

(6) A determination which is made awarding council tax benefit under the 1992 Regulations in accordance with paragraph (5)—

- (a) may award that benefit from the relevant date if it appears probable to the appropriate authority that the conditions for entitlement will be satisfied from that date;
- (b) shall be subject to the conditions for entitlement satisfied on the relevant date; and
- (c) may be reviewed if any question arises as to the satisfaction of those conditions.

(7) Regulation 66(3) of the 1992 Regulations (time within which claims are to be determined) shall apply to claims for council tax benefit made or treated as made under this article until 14 days before the relevant date.

(8) To determine a person's entitlement to council tax benefit under the 1992 Regulations for the purposes of this Order, the appropriate authority may require that person to furnish such certificates, documents, information and evidence as it may reasonably require.

Waiver of claims

3.—(1) Notwithstanding the provisions of section 1 of the Administration Act (necessity of claims for entitlement to benefit), the appropriate authority may determine that, with respect to any person who has been awarded either housing benefit or community charge benefits for a benefit period which includes 31st March 1993, it shall not be a condition of entitlement to council tax benefit

under the 1992 Regulations that a claim for that benefit has been made; and where it so determines the provisions of the Administration Act and the Contributions and Benefit Act and regulations made thereunder shall apply, subject to the following provisions of this Order, as if a claim for that benefit had been duly made by or on behalf of a person to whom this paragraph applies in respect of a period beginning on the relevant date.

(2) Where by virtue of paragraph (1) a person's entitlement to council tax benefit falls to be determined as if a claim for it has been made, his entitlement may be determined at an earlier date than the relevant date if that person is entitled to either housing benefit or community charge benefit at that earlier date; and any entitlement to council tax benefit shall be determined in accordance with the 1929 Regulations as if the whole of those Regulations were in force.

(3) A determination which is made awarding council tax benefit under the 1992 Regulations in accordance with paragraph (2)–

- (a) may award benefit from the relevant date if it appears probable to the appropriate authority that the conditions for entitlement will be satisfied from that date;
- (b) shall be subject to the conditions for entitlement being satisfied on the relevant date; and
- (c) may be reviewed if any question arises as to the satisfaction of those conditions.

Further provision for initial claims

4.—(1) Subject to paragraph (2), where–

- (a) a person is liable for council tax from the relevant date; and
- (b) a claim for council tax benefit in respect of that tax is received by the designated office of the appropriate authority either–
 - (i) not more than 56 days after the relevant date, or
 - (ii) where the claimant does not receive his first council tax demand notice stating the payment he is required to make until after the relevant date, not more than 56 days from the date he receives that notice;

the claim for council tax benefit shall be treated as having been made on the relevant date.

(2) Where the claimant does not receive his first council tax demand notice until after the relevant date but the delay in the issue of the notice is due to his own act or omission, paragraph (1)(b)(ii) shall not apply in his case.

Determinations

5.—(1) Where a determination, which is made by the appropriate authority before the relevant date in order that it may be effective from that date, is notified to a person before that date, regulation 69(2) of the 1992 Regulations (representations on reviews) shall have effect as though for the reference in that provision to a period of 6 weeks from the notification of the determination there were substituted a reference to a period of 6 weeks beginning on the relevant date.

(2) A determination under this Order shall be treated for the purposes of regulations 69 to 76 (reviews) as if it were a determination under those Regulations.

Recovery of overpayments of community charge benefit

6. Where prejudice to any other method of recovery, an overpayment of community charge benefits made to a person by an appropriate authority under

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the 1989 Regulations, which is recoverable under those Regulations by that authority, maybe recovered by that authority, where council tax benefit is due from that authority to the person concerned, in the same manner as excess benefits may be recovered under the 1992 Regulations.

Outstanding community charge benefits

7. Where, on or after the relevant date, outstanding community charge benefit remains due to a person from an appropriate authority in respect of a benefit period ending on or before 31st March 1993, that authority may discharge that person's entitlement to the community charge benefit by a reduction in the amount that that person is or becomes liable to pay to that authority in respect of council tax for the financial year beginning on the relevant date.

Information to be supplied by an appropriate authority to the Secretary of State with respect to claimants for council tax benefit

8. In the period from 31st August 1992 to 31st March 1993, in addition to the information which is to be supplied by an appropriate authority to the Secretary of State in accordance with regulation 93 of the 1992 Regulations, an appropriate authority shall inform the Secretary of State of the name and national insurance number of any claimant or claimants for council tax benefit who are in receipt of income support and in respect of whom a determination has been made under this Order as to their entitlement to council tax benefit, provided that that information is required by the Secretary of State in connection with his functions under the Administration Act 1992 and the Contributions and Benefit Act 1992.

Signed by authority of the Secretary of State for Social Security.

3rd August 1992

Ann Widdecombe
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional and consequential provisions in connection with the introduction of a statutory scheme for the awarding of council tax benefit under the Social Security Administration Act 1992 and the Social Security Contributions and Benefits Act 1992 as amended by the Local Government Finance Act 1992. This scheme is implemented with effect from 1st April 1993 ("the relevant date") by the Council Tax Benefit (General) Regulations 1992 ("the new scheme"). Council tax benefit under the new scheme replace community charge benefits.

Claims for either housing benefit or community charge benefits made in the period from 31st August 1992 to 31st March 1993 may be treated as claims for council tax benefit by the authority to whom they are made. Any such claim may be determined before the relevant date but the determination may be reviewed where a question arises as to the satisfaction of the conditions for an award of benefit (article 2).

Claims for council tax benefit need not be made before the relevant date where the authority responsible for awarding that benefit determines that no claim need be made. Entitlement to an award may be determined before the relevant date though the award may be reviewed either before or after that date if the entitlement conditions are not satisfied (article 3).

Claims for council tax benefit to have effect from the relevant date may be treated as made on that date where they are made within 56 days of the claimant receiving his first council tax demand notice, or are made within 56 days of the relevant date whichever is the later. Where the receipt of the first demand notice is delayed in consequence of an act or omission of the claimant claims more than 56 days after the relevant date shall not be treated as made on that date (article 4).

Where an authority makes a determination in advance of the relevant date, the time within which a person may apply for a review of that determination (6 weeks) will run from the relevant date (article 5).

Recoverable overpayments of community charge benefits may be recovered under the new scheme in the same manner as excess benefits maybe recovered under that scheme (article 6).

A person to whom community charge benefit remains owing by an appropriate authority at the relevant date, may be awarded the outstanding benefit in the form of a reduction of his liability for council tax owed to that authority (article 7).

Provision is made as to the information to be provided by an appropriate authority to the Secretary of State in the case of claimants for council tax benefit in respect of whom a determination as to their entitlement for benefit is made under this Order (article 8).

