

## 2004 No. 2303

### SOCIAL SECURITY

#### The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No. 2) Regulations 2004

*Made* - - - - - 27th August 2004  
*Laid before Parliament* 10th September 2004  
*Coming into force*  
*for the purposes of regulations 1, 2(1) to (3) and 3(1) to*  
*(3)* 4th October 2004  
*for all other purposes* 6th October 2004

The Secretary of State, in exercise of the powers conferred upon him by sections 123(1)(d) and (e), 131(10), 137(1) and (2)(h) and 175(1) and (3) to (5) of the Social Security Contributions and Benefits Act 1992(a), sections 5(1)(a) and (k), 6(1)(a) and (l), 189(1) and (4) to (6) and 191 of the Social Security Administration Act 1992(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, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No. 2) Regulations 2004 and shall come into force—

- (a) for the purposes of this regulation and regulations 2(1) to (3) and 3(1) to (3) on 4th October 2004;
- (b) for all other purposes on 6th October 2004.

(2) In these Regulations—

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

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

[Regulation 2 makes various amendments to S.I. 1987/1971.]

[Regulation 3 makes various amendments to S.I. 1992/1814.]

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- (a) 1992 c. 4. Section 131 was substituted and section 137 was amended to have effect with respect to council tax benefit by Schedule 9 to the Local Government Finance Act 1992 (c. 14). Section 137(1) is cited because of the meaning ascribed to the word “prescribed”.
  - (b) 1992 c. 5. Section 191 is cited because of the meaning ascribed to the word “prescribe”.
  - (c) See: section 176(1)(a) of the Social Security Administration Act 1992.
  - (d) See: section 173(1)(b) of the Social Security Administration Act 1992.
  - (e) S.I. 1992/1814. The relevant amending instruments are S.I. 1993/688, S.I. 1996/194, S.I. 1999/1308, S.I. 2000/897, S.I. 2001/1264, S.I. 2001/1605, S.I. 2003/1338 and S.I. 2004/14.
  - (f) S.I. 1987/1971. The relevant amending instruments are S.I. 1988/1971, S.I. 1990/546, S.I. 1990/671, S.I. 1990/1549, S.I. 1993/317, S.I. 1994/578, S.I. 1996/194, S.I. 1997/2197, S.I. 1999/3108, S.I. 2000/897, S.I. 2003/1338, S.I. 2004/14 and S.I. 2004/319.

HOUSING BENEFIT AND COUNCIL TAX BENEFIT  
(MISCELLANEOUS AMENDMENTS) (No. 2) REGULATIONS 2004

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

27 August 2004

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

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**EXPLANATORY NOTE**

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

These Regulations further 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”).

Regulation 2 amends the Housing Benefit Regulations. Paragraph (2) inserts the definition of “the qualifying age for state pension credit” into regulation 2(1) of the Housing Benefit Regulations. Paragraph (3) amends regulation 5 of the Housing Benefit Regulations inserting a new paragraph (5A) which provides for persons who move to a dwelling in respect of which there is no liability to make payments from a dwelling where a liability to make payments is continuing, to be treated as occupying the former dwelling as their home for up to a period of four benefit weeks, where that liability could not reasonably have been avoided. Paragraph (4)(b) inserts two new paragraphs into regulation 65 setting out the dates entitlement to housing benefit is to commence in cases where new regulation 72BA applies. Paragraphs (4)(a) and (5) make amendments consequent upon those made by paragraph (4)(b). Paragraph (6) inserts a new regulation 72BA into the Housing Benefit Regulations to prescribe the time for claiming housing benefit for a person to whom regulation 2 of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (S.I. 2003/325) applies.

Regulation 3 amends the Council Tax Benefit Regulations. Paragraph (2) makes an amendment which mirrors that made by regulation 2(2). Paragraph (3) makes a clarifying amendment to regulation 51 of the Council Tax Benefit Regulations to the effect that all discounts given, and reductions made, under the Local Government Finance Act 1992 are taken into account in the formula for calculating, and in the calculation of, respectively, a person’s maximum council tax benefit. Paragraph (4) makes amendments which mirror those made by regulation 2(4). Paragraph (5) inserts a new regulation 62BA into the Council Tax Benefit Regulations which mirrors that inserted by regulation 2(6), except in that it applies 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.