

## 2005 No. 573

### SOCIAL SECURITY

#### The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No. 2) Regulations 2005

*Made* - - - - 8th March 2005  
*Laid before Parliament* 11th March 2005  
*Coming into force in accordance with regulation 1(1)*

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 123(1)(d) and (e), 131(3)(b), 135(1), 136(3), 136A(3), 137(1) and (2)(h) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a) and sections 6(1)(1), 189(1), (4) and (5) and 191 of the Social Security Administration Act 1992(b) and paragraphs 4(6), 20(1)(b) and 23(1) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(c) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(d) and after consultation with the organisations appearing to him to be representative of the authorities concerned(e), 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 2005 and shall come into force—

- (a) for the purposes of regulations 2(8), (9) and (10) and 3(6), on 3rd April 2005;
- (b) for all other purposes, on 4th April 2005.

(2) In these Regulations—

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

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

“the State Pension Credit Regulations” means the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003(h).

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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 131(3)(b) was substituted by paragraph 4 of Schedule 9 to the Local Government Finance Act 1992; 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 for the meaning of the word “prescribed”.

(b) 1992 c. 5; section 191 is cited for the meaning of the word “prescribe”.

(c) 2000 c. 19; paragraph 23(1) is cited for the meaning of the word “prescribed”.

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

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

(f) S.I. 1992/1814.

(g) S.I. 1987/1971.

(h) S.I. 2003/325; the relevant amending instrument is S.I. 2003/2275.

HOUSING BENEFIT AND COUNCIL TAX BENEFIT (MISCELLANEOUS AMENDMENTS) (No. 2) REGULATIONS 2005

Regs. 2-3

[Regulation 2 makes various amendments to S.I. 1992/1814.]

[Regulation 3 makes various amendments to S.I 1987/1971.]

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

8 March 2005

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

**EXPLANATORY NOTE**

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

These Regulations make various amendments to the Council Tax Benefit (General) Regulations 1992 (“the Council Tax Benefit Regulations”) and the Housing Benefit (General) Regulations 1987 (“the Housing Benefit Regulations”).

The Housing Benefit Regulations and the Council Tax Benefit Regulations were modified by the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (“the 2003 Regulations”) for persons who have attained the qualifying age for state pension credit (except where regulation 2(2) (for housing benefit) and 12(2) (for council tax benefit), of those Regulations applies). These Regulations apply to the Council Tax Benefit Regulations and the Housing Benefit Regulations as so modified and as not so modified, as set out in regulations 2(1) and (2) and 3(1) and (2).

Regulation 2 amends the Council Tax Benefit Regulations. Paragraph (3) removes an incorrect reference to regulation 4C of those Regulations. Paragraph (4) omits regulation 4B. Paragraph (5) substitutes paragraphs (1) to (5) of regulation 4C with new provisions which provide for the treatment of temporary absences from a person’s dwelling. Paragraph (6) amends regulation 28 (which applies to persons who have attained the qualifying age for state pension credit) to provide that certain specified categories of retirement pension income will not be treated as notional income under regulation 28(1)(a). Paragraph (7) makes transitional provision in respect of the provisions amended by paragraph (6). Paragraphs (8) and (9) replace a reference to “housing benefit” in regulations 53ZB and 59B with “council tax benefit”. Paragraph (10) amends Schedule 1 to remove a provision excluding the award of an Enhanced Disability Premium in respect of a child whose capital exceeds a specified amount. Paragraph (11) amends Schedule 4A (which applies to persons who have attained the qualifying age for state pension credit) to provide for certain income from capital to be disregarded when calculating a claimant’s income.

Regulation 3 amends the Housing Benefit Regulations. Paragraph (3) amends regulation 5 by replacing (8A) with a new provision which deals with the treatment of prisoners on temporary release and by making other minor, technical amendments. Paragraphs (4) to (7) make other amendments to those Regulations which are the equivalent of those made by paragraphs (6), (7), (10) and (11) respectively of regulation 2.

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