

## 2005 No. 2502

### SOCIAL SECURITY

#### The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No. 3) Regulations 2005

*Made - - - - 7th September 2005*

*Laid before Parliament 12th September 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), 130(4), 131(10), 135(1), 136(3), (4), (5)(a) and (b), 136A(3), 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a) and sections 5(1)(k), 6(1)(u) and 189(1), (4) and (5) of the Social Security Administration Act 1992(b) and sections 34(2), 79(1) and (4) and 84 of the Social Security Act 1998(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 and after consultation with the organisations appearing to him to be representative of the authorities concerned, 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.3) Regulations 2005 and shall come into force—

- (a) for the purposes of regulations 2(6), 3(6) and (10), on 3rd October 2005;
- (b) for the purposes of regulation 2 (other than paragraph (6)) in relation to any case where rent is payable at intervals of a whole number of weeks, on 3rd April 2006; and
- (c) for all other purposes, on 1st April 2006.

(2) 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 131 was substituted by paragraph 4 of Schedule 9 to the Local Government Finance Act 1992; section 136A was inserted by paragraphs 1 and 3 of Schedule 2 to the State Pension Credits Act 2002 (c. 16); section 137(1) is an interpretation provision and is cited for the meaning of the word “prescribed”; sections 175(1) and (4) were amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2); and section 175(5) was amended by paragraph 36 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c. 18).
  - (b) 1992 c. 5; section 189(1) was amended by paragraph 57 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) 1999, Schedule 8 and paragraph 109 of Schedule 7 to the Social Security Act 1998 (c. 14) and Schedule 6 to the Tax Credits Act 2002 (c. 21); sections 189(4) and (5) were amended by Schedule 8 and paragraph 109 of Schedule 7 to the Social Security Act 1998.
  - (c) 1998 c. 14; Section 79(1) was amended by paragraphs 12 and 13 of Schedule 4 to the Tax Credits Act 2002; section 84 is cited for the meaning of the word “prescribe”.
  - (d) S.I. 1992/1814

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

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

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

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

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

[Regulation 3(12) revoked by S.I. 2006/588.]

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

7th September 2005

*Stephen C. Timms*  
Minister of State,  
Department for Work and Pensions

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(a) S.I. 1987/1971.

(b) S.I. 2003/325.

### EXPLANATORY NOTE

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

These Regulations amend the Housing Benefit (General) Regulations 1987 (“the Housing Benefit Regulations”) and the Council Tax Benefit (General) Regulations 1992 (“the Council Tax 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 amend the Housing Benefit Regulations and the Council Tax 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 Housing Benefit Regulations. Paragraph (3) removes from regulation 16 (which applies to persons who have attained the qualifying age for state pension credit) provisions which provide for the reduction of a claimant’s applicable amount where he or his partner are a long term patient. It also removes other ancillary provisions from that regulation. Paragraph (4) removes regulation 18 which contains an equivalent provision which applies to claimants who have not reached the qualifying age for state pension credit. Paragraph (5) imports into regulation 21A(4)(c) the definition of “patient” previously in regulation 18. Paragraph (6) removes incorrect references in regulation 28(12) (which applies to persons who have attained the qualifying age for state pension credit). Paragraph (7) makes a minor, technical amendment to regulation 36(7)(a). Paragraph (8) amends regulation 63(7) which prevents non-dependent deductions being made where the non-dependent is a long term patient, by amending the definition of “patient” and the rule under which periods of time spent as a patient are calculated. Paragraph (9) amends regulation 65 by removing an obsolete provision and inserting a new paragraph (5) under which the benefit week from which a claimant becomes entitled to housing benefit is determined in particular circumstances. Paragraph (10) omits paragraph (1A) of regulation 68 and inserts into that regulation new provisions under which the date on which a change of circumstances takes effect is determined in various, specified circumstances. It also makes other minor, technical amendments. Paragraph (11) makes the same amendment made by paragraph (7) in regulation 68B. Paragraph (12) amends regulation 69 by inserting new provisions under which a claimant’s weekly eligible rent is calculated. It also makes other, ancillary amendments. Paragraph (13) makes ancillary technical amendments to regulation 70 consequent upon the amendments to regulation 69 made by paragraph (12). Paragraph (14) amends regulation 75(6) by removing the requirement on a person receiving only savings credit to report changes affecting child tax credit or child benefit. Paragraph (15) makes minor, technical amendments to Schedule 2. Paragraph (16) removes the requirement that arrears of working tax credit or child tax credit must be paid as a result of a change of circumstances in order to be disregarded in a claimant’s assessment of capital. Paragraph (17) amends paragraph 21(2) of Schedule 5ZA (which applies to persons who have attained the qualifying age for state pension credit) by adding discretionary housing payments and working tax credit to the list of benefits which may be disregarded as capital in the assessment of a claimant’s capital. Paragraph (18) amends paragraph 9(2) of Schedule 6 by removing the requirement to refer in a decision notice to the amount of any child tax credit or child benefit where a person on state pension credit is entitled only to savings credit.

Regulation 3 amends the Council Tax Benefit Regulations. Paragraphs (3) to (9) make amendments to those Regulations which are the equivalent of those made by paragraphs (3) to (6), (8), (10) and (14) respectively of regulation 2. Paragraph (10) removes an obsolete reference from and, replaces obsolete terminology in regulation 79(1). Paragraph (11) makes an amendment to Schedule 1 equivalent to that made by paragraph (15) of regulation 2. Paragraph (12) adds to paragraph 1(2) of Schedule 2 a

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new provision under which alternative maximum council tax benefit is calculated as 100% in the specified circumstances. Paragraphs (13) to (15) make amendments which are equivalent to those made by paragraphs (16) to (18) 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.