STATUTORY INSTRUMENTS

2005 No. 2894

The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No.4) Regulations 2005

Amendment of the Housing Benefit Regulations

2.—(1) Subject to paragraph (2), the Housing Benefit Regulations shall be amended in accordance with the following paragraphs.

(2) The amendments made by paragraphs (5), (7), (9) and (13) are to the Housing Benefit Regulations as modified in their application to persons to whom regulation 2(1) of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003(**1**) applies.

(3) In regulation 2(**2**) (interpretation) in the definition of "appropriate DWP office" after "Pensions" insert "dealing with state pension credit or an office".

(4) In regulation 21A(**3**) (treatment of childcare charges)—

(a) in paragraph (6) for "(2)" substitute "(2ZA) and (2ZC)(b)"; and

(b) in paragraph (6)(c) for "28 weeks immediately preceding the date of claim" substitute "the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding the first Monday in September following that person's sixteenth birthday.".

(5) In regulation 27(10)(c) (treatment of childcare charges) for "28 weeks immediately preceding the date of claim" substitute "the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding the first Monday in September following that person's sixteenth birthday.".

(6) In regulation 29(4)(a)(**4**) (calculation of net earnings of employed earners), for "in the year of assessment in which the claim was made", substitute "applicable to the assessment period".

(7) In regulation 31(5)(a)(**5**) (calculation of net earnings of employed earners), for "in the year of assessment in which the claim was made", substitute "applicable to the assessment period".

(8) In regulation 32(**6**) (deduction of tax and contributions of self-employed earners)—

(a) in paragraph (1) for "in the year of assessment in which the claim was made" substitute "applicable to the assessment period";

(b) in both sub-paragraphs (a) and (b) of paragraph (2)—

(i) for "at the date of claim", substitute "to the assessment period"; and

(ii) for "in which the date of claim falls", substitute "applicable to the assessment period".

(9) In regulation 35(**7**) (deduction of tax and contributions of self-employed earners)—

(**1**) S.I 2003/325. The relevant amending instrument is S.I 2003/2275.
(**2**) The relevant amending instrument is S.I.2002/1397.
(**3**) Regulation 21A was inserted by S.I. 1994/1924. The relevant amending instrument is S.I. 1999/920.
(**4**) Relevant amending instruments are S.I. 1992/2148 and S.I. 1994/2137.
(**5**) The relevant amending instrument is S.I. 2003/2275.
(**6**) Relevant amending instruments are S.I. 1992/2148, S.I. 1993/2118 and S.I. 1994/2137.
(**7**) The relevant amending instrument is S.I. 2003/2275.

(a) in paragraph (1) for "in the year of assessment in which the claim was made" substitute "applicable to the assessment period";

(b) in both sub-paragraphs (a) and (b) of paragraph (2)—

(i) for "at the date of claim", substitute "to the assessment period"; and

(ii) for "in which the date of claim falls", substitute "applicable to the assessment period".

(10) In regulation 34(1)(**8**) (capital treated as income) for "review" substitute "revision or supersession".

(11) In regulation 35(7)(a)(**9**) (notional income), for "in the year of assessment in which the claim was made" substitute "applicable to the assessment period".

(12) In regulation 41(b)(i) (calculation of capital in the United Kingdom) for "review" substitute "revision or supersession".

(13) In regulation 40(b)(i) (calculation of capital in the United Kingdom) for "review" substitute "revision or supersession".

(14) In regulation 59(**10**) (income treated as capital)—

(a) in paragraph (3), for "paragraph 13(2) of Schedule 4" substitute "paragraph (4)"; and

(b) after paragraph (3), insert—

"(4) In sub-paragraph (3)—

(a) "rent" means eligible rent less any deductions in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions);

(b) the expression "ordinary clothing or footwear" means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.".

(15) In Part X (claims), except regulation 71, for "four weeks" each time it appears substitute "one month".

(16) In regulation 72(**11**) (time and manner in which claims are to be made)—

(a) in paragraph (4)—

(i) in sub-paragraph (a) after "incapacity benefit" insert ", state pension credit"; and

(ii) in sub-paragraph (f) omit the words from "an office" to the end and substitute "an authorised office.";

(b) in paragraph (5)—

(i) omit sub-paragraphs (aa), (aaa), (b) and (c); and

(ii) immediately before sub-paragraph (d) insert—

"(cc) in a case where the claimant is the former partner of a person who was, at the date of his death or their separation, entitled to housing benefit and the claimant makes a claim within one month of the date of the death or the separation, that date;

(ccc) except where sub-paragraph (a), (bb) or (cc) is satisfied, in a case where a properly completed claim is received in a designated office, an authorised office or an appropriate DWP office within one month, or such longer

(**8**) The relevant amending instrument is S.I. 1990/671.
(**9**) Relevant amending instruments are S.I. 1992/2148 and S.I 1994/2137.
(**10**) Regulation 59 was inserted by S.I. 2000/1922.
(**11**) Relevant amending instruments are S.I. 1990/671, S.I. 1996/1510, S.I. 2002/1497, S.I. 2003/48, S.I. 2003/325, S.I. 2003/1632 and S.I. 2004/3368.

period as the relevant authority considers reasonable, of the date on which the claim form was issued following the claimant first notifying, by whatever means, a designated office, an authorised office or an appropriate DWP office of his intention of making a claim, the date of first notification; and"; and

(iii) in sub-paragraph (d) after "designated office" add ", authorised office or appropriate DWP office";

(c) in paragraph (8)(a)—

(i) after "requested to complete it" insert "or the evidence"; and

(ii) after "the request" omit the words "to complete"; and

(d) after paragraph (17) add—

"(18) In this regulation "authorised office" means an office which is nominated by the Secretary of State and authorised by the relevant authority for receiving claims for decision by the relevant authority.".

(17) In regulation 91(1)(**12**) (payment on account of a rent allowance) after "requested" insert "or which has been requested by the Secretary of State".

(18) In regulation 94(1A)(**13**) (circumstances in which payment may be made to a landlord) after "on a claim" insert ", or a supersession under paragraph 4 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000".

(19) In Schedule 2A paragraph 6(2)(a) (**14**) (applicable amounts for persons who have attained or whose partner has attained the qualifying age for state pension credit), after "single claimant" insert ", lone parent".

(20) In Schedule 4(**15**) (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 13—

(i) omit sub-paragraphs (1) and (2);

(ii) for sub-paragraph (2A), substitute—

"(2A) Subject to sub-paragraph (3), any of the following payments—

(a) a charitable payment;

(b) a voluntary payment;

(c) a payment (not falling within sub-paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the claimant;

(d) a payment under an annuity purchased—

(i) pursuant to any agreement or court order to make payments to the claimant; or

(ii) from funds derived from a payment made,

in consequence of any personal injury to the claimant; or

(e) a payment (not falling within sub-paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the claimant in consequence of any personal injury to the claimant.";

(**12**) Relevant amending instruments are S.I. 1995/2868 and S.I. 2001/1605.
(**13**) Relevant amending instruments are S.I. 1996/965 and S.I. 2001/1605.
(**14**) Schedule 2A was inserted by S.I. 2003/325.
(**15**) Relevant amending instruments are S.I. 1990/1775, S.I. 1991/1599, S.I. 1991/2695, S.I. 1993/317, S.I. 1996/462, S.I. 1998/563, S.I. 2002/2442, S.I. 2004/2308 and S.I. 2005/273.

(iii) in sub-paragraph (3), for "sub-paragraphs (1) to (2A)", substitute "sub-paragraph (2A)"; and

(iv) omit sub-paragraphs (4), (5) and (6); and

(b) in paragraph 33, omit "paragraph 13(1)".