
STATUTORY INSTRUMENTS

1994 No. 2137

SOCIAL SECURITY

**The Housing Benefit and Council Tax Benefit
(Miscellaneous Amendments) (No. 2) Regulations 1994**

<i>Made</i>	- - - -	<i>12th August 1994</i>
<i>Laid before Parliament</i>		<i>19th August 1994</i>
<i>Coming into force</i>	- -	<i>3rd October 1994</i>

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 123(1)(d) and (e), 131(10), 135(1) and (6), 136(3), (4) and (5) (a) and (b), 137(1) and 175(1) and (3) to (5) of the Social Security Contributions and Benefits Act 1992(1) and sections 5(1)(p), 63, 127(1) and (2), 128(1) and (2), 139(6)(b) and 189(1) and (4) to (6) of the Social Security Administration Act 1992(2), and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of the authorities concerned(3), and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(4), 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 1994 and shall come into force on 3rd October 1994.

(2) In these Regulations—

- (a) “the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992(5);
- (b) “the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(6).

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- (1) 1992 c. 4; section 123(1)(e) and 131 of the Social Security Contributions and Benefits Act 1992 was substituted by the Local Government Finance Act 1992 (c. 14), section 103 and Schedule 9, paragraphs 1(1) and 4; section 137(1) is an interpretation provision and is cited because of the meaning assigned to the word “prescribed”.
 - (2) 1992 c. 5; sections 128(2), 139(6) and 189 of the Social Security Administration Act 1992 were amended to have effect with respect to council tax benefit by the Local Government Finance Act 1992, section 103 and Schedule 9, paragraphs 12(1), 18(2), 20(5) and 24.
 - (3) See the Social Security Administration Act 1992 (c. 5), section 176(1).
 - (4) See the Social Security Administration Act 1992, section 173(1)(b) and (7); section 173(7) defines “regulations”.
 - (5) S.I. 1992/1814.
 - (6) S.I. 1987/1971.

Amendment of regulation 2 of the Housing Benefit Regulations

2. In regulation 2(1) of the Housing Benefit Regulations (interpretation)—
- (a) in the definition of “employed earner” for the words “Social Security Act” there shall be substituted the words “Contributions and Benefits Act and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay”;
 - (b) in the definition of “person affected” for the words “any person (including the appropriate authority) whose rights,” there shall be substituted the following words—
“a person who is—
 - (a) a claimant;
 - (b) the appropriate authority;
 - (c) the landlord, in the case of a determination made under regulation 93 or 94; or
 - (d) a person from whom the appropriate authority determines that an overpayment is recoverable in accordance with Part XIII,and whose rights,”.

Amendment of regulation 29 of the Housing Benefit Regulations

3.—(1) Regulation 29 of the Housing Benefit Regulations (calculation of net earnings of employed earners)(7) shall be amended in accordance with the following provisions of this regulation.

- (2) In paragraph (3)—
- (a) at the end of sub-paragraph (a) the word “and” shall be omitted;
 - (b) for sub-paragraph (b) there shall be substituted the following sub-paragraphs—
 - “(b) one-half of any sum paid by the claimant by way of a contribution towards an occupational pension scheme;
 - (c) one-half of the amount calculated in accordance with paragraph (3B) in respect of any qualifying contribution payable by the claimant; and
 - (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the Contributions and Benefits Act.”.
- (3) After paragraph (3) there shall be inserted the following paragraphs—
- “(3A) In this regulation “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.
 - (3B) The amount in respect of any qualifying contribution shall be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying contribution shall be determined—
 - (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;

(7) Relevant amending instruments are S.I. 1992/2148, 1994/578.

- (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.”.
- (4) In paragraph (4)—
 - (a) after the words “Where the earnings of a claimant are estimated under” there shall be added the words “sub-paragraph (b) of”;
 - (b) in sub-paragraph (a) the words “and, if appropriate, the basic rate” shall be omitted;
 - (c) for sub-paragraph (c) there shall be substituted the following sub-paragraph—
 - “(c) one-half of any sum which would be payable by the claimant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.”.

Amendment of regulation 30 of the Housing Benefit Regulations

4. In regulation 30 of the Housing Benefit Regulations (earnings of self-employed earners)(8) for paragraph (2) there shall be substituted the following paragraph—

“(2) “Earnings” shall not include any payment to which paragraph 24 or 25 of Schedule 4 refers (payments in respect of a person accommodated with the claimant under arrangements made by a local authority or voluntary organisation and payments made to the claimant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the claimant’s care).”.

Amendment of regulations 32 and 35 of the Housing Benefit Regulations

5. In regulations 32(1) and 35(7)(a) of the Housing Benefit Regulations (deduction of tax and contributions for self-employed earners and notional income)(9) the words “and, if appropriate, the basic rate” shall be omitted.

Amendment of regulation 77 of the Housing Benefit Regulations

- 6. In regulation 77 of the Housing Benefit Regulations(10) (notification of determinations)—
 - (a) in paragraph (4)—
 - (i) after the words “A person” there shall be inserted the word “affected”;
 - (ii) for the words “request in writing” there shall be substituted the words “, by notice in writing signed by him, request”;
 - (b) after paragraph (4) there shall be inserted the following paragraph—
 - “(4A) For the purposes of paragraph (4), where a person affected who requests a written statement is not a natural person, the notice in writing referred to in that paragraph shall be signed by a person over the age of 18 who is authorised to act on that person’s behalf.”.

Amendment of regulation 79 of the Housing Benefit Regulations

- 7. In regulation 79 of the Housing Benefit Regulations(11) (review of determinations)—
 - (a) in paragraph (2) for the words “if a person makes written representations” there shall be substituted the words “if a person affected makes written representations signed by him”;

(8) Regulation 30 was amended by S.I. 1991/387, 1993/317, 1994/578.

(9) Relevant amending instruments are S.I. 1992/2148, 1994/578.

(10) Regulation 77 was amended by S.I. 1988/661, 1992/432.

(11) Relevant amending instruments are S.I. 1992/432 and 1993/1150.

- (b) after paragraph (2) there shall be inserted the following paragraph—
- “(2A) For the purposes of paragraph (2), where the person affected who makes such representations is not a natural person, those representations shall be signed by a person over the age of 18 who is authorised to act on that person’s behalf.”

Amendment of regulation 81 of the Housing Benefit Regulations

- 8.** In regulation 81 of the Housing Benefit Regulations (further review of determinations)—
- (a) in paragraph (1)—
- (i) after the words “A person” there shall be inserted the word “affected”;
- (ii) after the words “written notice” there shall be inserted the words “signed by him”;
- (b) after paragraph (1) there shall be inserted the following paragraph—
- “(1A) For the purposes of paragraph (1), where a person affected who requests a further review is not a natural person, the written notice referred to in that paragraph shall be signed by a person over the age of 18 who is authorised to act on that person’s behalf.”

Amendment of regulation 86 of the Housing Benefit Regulations

- 9.** In regulation 86 of the Housing Benefit Regulations (setting aside of determinations and decisions on certain grounds)—
- (a) in paragraph (2) after the words “shall be made in writing” there shall be inserted the words “signed in accordance with paragraph (2A)”;
- (b) after paragraph (2) there shall be inserted the following paragraph—
- “(2A) For the purposes of paragraph (2) the application shall be signed by the person affected who makes the application or, where that person is not a natural person, a person over the age of 18 who is authorised to act on that person’s behalf.”

Amendment of regulation 94 of the Housing Benefit Regulations

- 10.** Regulation 94 of the Housing Benefit Regulations (circumstances in which payment may be made to a landlord) shall be re-numbered paragraph (1) of regulation 94, and after paragraph (1) there shall be added the following paragraph—
- “(2) In this regulation “landlord” has the same meaning as in regulation 93(12).”

Amendment of Schedule 2 to the Housing Benefit Regulations

- 11.—**(1) Schedule 2 to the Housing Benefit Regulations (applicable amounts)(13) shall be amended in accordance with the following provisions of this regulation.
- (2) In paragraph 12(1)(a)(i) for the words from “section 15” to “of that Act” there shall be substituted the words “Part II of the Contributions and Benefits Act or severe disablement allowance under Part III of that Act”.
- (3) In paragraph 12(1)(a)(ii) for the words “section 15 of the Social Security Act” there shall be substituted the words “Part II of the Contributions and Benefits Act”, and for the words “retirement pension under the Social Security Act” there shall be substituted the words “retirement pension under that Act”.
- (4) In paragraph 13 after sub-paragraph (3) there shall be added the following sub-paragraph—

(12) Regulation 93 was amended by S.I. 1990/546.

(13) Relevant amending instruments are S.I. 1988/1971, 1990/546, 1991/2742, 1993/1150 and 2118.

“(4) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account shall be taken of an award of invalid care allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is made.”.

Amendment of Schedule 4 to the Housing Benefit Regulations

12. In Schedule 4 to the Housing Benefit Regulations (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 16 for head (i) there shall be substituted the following head—

“(i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988(**14**) (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369 (1A) of that Act;”;

(b) after paragraph 52(**15**) there shall be added the following paragraphs—

“**53.** Any supplementary pension under article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows)(**16**).

54. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows)(**17**), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

55.—(1) Any payment which is—

(a) made under any of the Dispensing Instruments to a widow of a person—

(i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and

(ii) whose service in such capacity terminated before 31st March 1973; and

(b) equal to the amount specified in article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows).

(2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances)(**18**).”.

Amendment of Schedule 5 to the Housing Benefit Regulations

13. In Schedule 5 to the Housing Benefit Regulations (capital to be disregarded)—

(a) in paragraph 38(**19**) after the words “income other than earnings” there shall be inserted the words “or of any amount which is disregarded under paragraph 53, 54 or 55 of that Schedule”;

(b) after paragraph 45(**20**) there shall be added the following paragraphs—

(14) 1988 c. 1; paragraph (1A) was inserted in section 369 by section 81(3) of the Finance Act 1994 (c. 9).

(15) Paragraph 52 was added by S.I. 1994/578.

(16) S.I. 1983/883; relevant amending instruments are S.I. 1993/598, 1994/1906.

(17) S.I. 1983/686; relevant amending instruments are S.I. 1994/715, 1994/2021.

(18) Copies of the Dispensing Instruments are available from the Department of Social Security, A1, 6th Floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT.

(19) Paragraph 38 was added by S.I. 1990/1775.

(20) Paragraph 45 was added by S.I. 1993/317.

“46. Any sum of capital administered on behalf of a person under the age of 18 by the High Court under the provisions of Order 80 of the Rules of the Supreme Court(21), the County Court under Order 10 of the County Court Rules 1981(22), or the Court of Protection, where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents.

47. Any sum of capital administered on behalf of a person under the age of 18 in accordance with an order made under Rule 43.15 of the Act of Sederunt (Rules of the Court of Session 1994) 1994(23) or under Rule 131 of the Act of Sederunt (Rules of the Court, consolidation and amendment) 1965(24), or under Rule 36.14 of the Ordinary Cause Rules 1993(25) or under Rule 128 of the Ordinary Cause Rules(26), where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents.”.

Amendment of the Housing Benefit (Supply of Information) Regulations 1988

14.—(1) The Housing Benefit (Supply of Information) Regulations 1988(27) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) (information to be supplied by the Secretary of State to an authority)—

(a) in sub-paragraph (k) for the words “any further information” there shall be substituted the words “any information not referred to in sub-paragraphs (a) to (j), (l) or (m)”;

(b) after sub-paragraph (k) there shall be added the following sub-paragraphs—

“(l) that payment of income support to a claimant has been withheld in whole or in part;

(m) where payment of income support to a claimant has been withheld in whole or in part—

(i) the date from which it was withheld;

(ii) the reason why it was withheld;

(iii) whether payment of any withheld payment has been or is to be made.”.

(3) After paragraph (2) of regulation 3 there shall be added the following paragraph—

“(3) Where it appears to an authority that—

(a) a claimant or any partner of his is to be treated, in accordance with regulation 4 of the Housing Benefit Regulations (remunerative work), as engaged in remunerative work for the purposes of those Regulations;

(b) the claimant or any partner of his is responsible for a member of the same household who is either a child or a person referred to in the Housing Benefit Regulations as a young person;

(21) S.I. 1965/1776; for Order 80 as currently in force *see* “The Supreme Court Practice 1993” ISBN 0-421-46400-3.

(22) S.I. 1981/1687; for Order 10 as currently in force *see* “The County Court Practice 1994” ISBN 0-406-03674-8.

(23) S.I. 1994/1443.

(24) S.I. 1965/321.

(25) First Schedule to the Sheriff Courts (Scotland) Act 1907 (c. 51) as substituted in respect of causes commenced on or after 1st January 1994 by S.I. 1993/1956.

(26) First Schedule to the aforesaid Act of 1907 as substituted by S.I. 1983/747.

(27) Relevant amending instruments are S.I. 1988/662, 1994/1925.

- (c) neither the claimant nor any partner of his is in receipt of disability working allowance; and
- (d) a claim for family credit has not been made by or in respect of the claimant or any partner of his,

the authority shall inform the Secretary of State that it appears that a claim for family credit has not been made by or in respect of the claimant.”.

Amendment of regulation 2 of the Council Tax Benefit Regulations

15. In regulation 2(1) of the Council Tax Benefit Regulations (interpretation)—

- (a) in the definition of “employed earner” there shall be added at the end the words “and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay”;
- (b) in the definition of “person affected” for the words “any person (including the appropriate authority) whose rights,” there shall be substituted the following words—
“a person who is—
 - (a) a claimant;
 - (b) the appropriate authority; or
 - (c) a person from whom the appropriate authority determines that excess benefit is recoverable in accordance with Part XI,and whose rights,”.

Amendment of regulation 20 of the Council Tax Benefit Regulations

16.—(1) Regulation 20 of the Council Tax Benefit Regulations (calculation of net earnings of employed earners)(**28**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (3)—

- (a) at the end of sub-paragraph (a) the word “and” shall be omitted;
- (b) for sub-paragraph (b) there shall be substituted the following sub-paragraphs—
 - “(b) one-half of any sum paid by the claimant by way of a contribution towards an occupational pension scheme;
 - (c) one-half of the amount calculated in accordance with paragraph (3B) in respect of any qualifying contribution payable by the claimant; and
 - (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the Contributions and Benefits Act 1992.”.

(3) After paragraph (3) there shall be inserted the following paragraphs—

“(3A) In this regulation “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.

(3B) The amount in respect of any qualifying contribution shall be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the

(28) Regulation 20 was amended by S.I. 1993/688, 1994/578.

number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying contribution shall be determined—

- (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;
- (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.”.

(4) In paragraph (4)—

- (a) after the words “Where the earnings of a claimant are estimated under” there shall be added the words “sub-paragraph (b) of”;
- (b) in sub-paragraph (a) the words “and, if appropriate, the basic rate” shall be omitted;
- (c) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

“(c) one-half of any sum which would be payable by the claimant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.”.

Amendment of regulation 21 of the Council Tax Benefit Regulations

17. In regulation 21 of the Council Tax Benefit Regulations (earnings of self- employed earners)(**29**) for paragraph (2) there shall be substituted the following paragraph—

“(2) “Earnings” shall not include any payment to which paragraph 25 or 26 of Schedule 4 refers (payments in respect of a person accommodated with the claimant under arrangements made by a local authority or voluntary organisation and payments made to the claimant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the claimant’s care).”.

Amendment of regulations 23 and 26 of the Council Tax Benefit Regulations

18. In regulations 23(1) and 26(7)(a) of the Council Tax Benefit Regulations (deduction of tax and contributions for self-employed earners and notional income)(**30**) the words “and, if appropriate, the basic rate” shall be omitted.

Amendment of regulation 51 of the Council Tax Benefit Regulations

19.—(1) Regulation 51 of the Council Tax Benefit Regulations (maximum council tax benefit)(**31**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words “paragraphs (2) to (4)” there shall be substituted the words “paragraphs (2) to (5)”.

(3) After paragraph (4) there shall be added the following paragraph—

“(5) Where—

- (a) the appropriate authority is satisfied that a claimant’s circumstances are exceptional; and
- (b) either—

(29) Regulation 21 was amended by S.I. 1993/688, 1994/578.

(30) Relevant amending instruments are S.I. 1993/688, 1994/578.

(31) Regulation 51 was amended by S.I. 1993/688.

- (i) any deduction (“non-dependant deduction”) in respect of non-dependants falls to be made under regulation 52 for the purpose of determining a person’s appropriate maximum council tax benefit; or
- (ii) an amount falls to be deducted from a person’s appropriate maximum council tax benefit in accordance with section 131(8)(b) of the Contributions and Benefits Act 1992⁽³²⁾ (amount of council tax benefit where income exceeds applicable amount); and
- (c) the condition in section 131(5) of that Act (condition as to income) would be fulfilled in respect of that person even if his appropriate maximum council tax benefit were not increased under this paragraph,

the authority may determine that the amount of the person’s appropriate maximum council tax benefit calculated in accordance with paragraphs (1) to (4) (“the lower amount”) shall be such higher amount (“the increased amount”) as it considers appropriate in the particular circumstances of the case, but so that the increased amount, after any deduction made in accordance with section 131(8)(b) of that Act, shall not exceed the sum of the lower amount and any non-dependant deductions.”.

Amendment of regulation 54 of the Council Tax Benefit Regulations

20.—(1) Regulation 54 of the Council Tax Benefit Regulations (alternative maximum council tax benefit) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words “paragraphs (2) and (3)” there shall be substituted the words “paragraphs (2) to (4)”.

(3) After paragraph (3) there shall be added the following paragraph—

“(4) Where—

- (a) the appropriate authority is satisfied that a claimant’s circumstances are exceptional; and
- (b) the alternative maximum council tax benefit in his case is an amount less than the highest of the amounts specified in Schedule 2,

the authority may determine that the amount of the alternative maximum council tax benefit in his case shall be such higher amount, not exceeding the highest of the amounts specified in Schedule 2, as it considers appropriate in the particular circumstances of the case.”.

Omission of regulation 60 of the Council Tax Benefit Regulations

21. Regulation 60 of the Council Tax Benefit Regulations (increases of weekly amounts for exceptional circumstances) shall be omitted.

Amendment of regulation 67 of the Council Tax Benefit Regulations

22. In regulation 67(2) of the Council Tax Benefit Regulations (notification of determinations) after the words “A person” there shall be inserted the word “affected”.

Amendment of regulation 69 of the Council Tax Benefit Regulations

23. In regulation 69(2) of the Council Tax Benefit Regulations⁽³³⁾ (review of determinations) after the word “person” there shall be inserted the word “affected”.

⁽³²⁾ 1992 c. 4; section 131 was substituted by the Local Government Finance Act 1992 (c. 14), section 103 and Schedule 9, paragraph 4.

⁽³³⁾ Relevant amendment is S.I. 1993/1150.

Amendment of regulation 70 of the Council Tax Benefit Regulations

24. In regulation 70(1) of the Council Tax Benefit Regulations (further review of determinations) after the words “A person” there shall be inserted the word “affected”.

Amendment of regulation 92 of the Council Tax Benefit Regulations

25.—(1) Regulation 92 of the Council Tax Benefit Regulations (information to be supplied by the Secretary of State to an appropriate authority)(**34**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)—

- (a) in sub-paragraph (k) for the words “paragraphs (a) to (j)” there shall be substituted the words “sub-paragraphs (a) to (j), (l) or (m)”;
- (b) after sub-paragraph (k) there shall be added the following sub-paragraphs—
 - “(l) that payment of income support to a person has been withheld in whole or in part;
 - (m) where payment of income support to a person has been withheld in whole or in part—
 - (i) the date from which it was withheld;
 - (ii) the reason why it was withheld;
 - (iii) whether payment of any withheld payment has been or is to be made.”.

Amendment of regulation 93 of the Council Tax Benefit Regulations

26. In regulation 93 of the Council Tax Benefit Regulations (information to be supplied by an appropriate authority to the Secretary of State)(**35**) after paragraph (2) there shall be added the following paragraph—

“(3) Where it appears to the appropriate authority that—

- (a) a person or any partner of his is engaged in remunerative work;
- (b) that person or any partner of his is responsible for a member of the same household who is either a child or a young person;
- (c) neither that person nor any partner of his is in receipt of disability working allowance; and
- (d) a claim for family credit has not been made by or in respect of that person or any partner of his,

the authority shall inform the Secretary of State that it appears that a claim for family credit has not been made by or in respect of that person.”.

Amendment of Schedule 1 to the Council Tax Benefit Regulations

27.—(1) Schedule 1 to the Council Tax Benefit Regulations (applicable amounts)(**36**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 13(1)(a)(i) for the words “section 33” there shall be substituted the words “Part II” and for the words “section 68” there shall be substituted the words “Part III”.

(34) Regulation 92 was amended by S.I. [1993/688](#), [1994/1925](#).

(35) Regulation 93 was amended by S.I. [1994/1925](#).

(36) Relevant amending instruments are S.I. [1993/1150](#) and [2118](#).

(3) In paragraph 13(1)(a)(ii) for the words “section 33” there shall be substituted the words “Part II”.

(4) In paragraph 14 after sub-paragraph (3) there shall be added the following sub-paragraph—

“(4) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account shall be taken of an award of invalid care allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is made.”.

Amendment of Schedule 4 to the Council Tax Benefit Regulations

28. In Schedule 4 to the Council Tax Benefit Regulations (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 16 in head (i) for the words from “at the basic rate” to the end of that head there shall be substituted the words “at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;”;

(b) after paragraph 51(37) there shall be added the following paragraphs—

“**52.** Any supplementary pension under article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows)(38) .

53. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows)(39), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

54.—(1) Any payment which is—

(a) made under any of the Dispensing Instruments to a widow of a person—

(i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and

(ii) whose service in such capacity terminated before 31st March 1973; and

(b) equal to the amount specified in article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows).

(2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non- effective pay and allowances)(40).”.

Amendment of Schedule 5 to the Council Tax Benefit Regulations

29. In Schedule 5 to the Council Tax Benefit Regulations (capital to be disregarded)—

(a) in paragraph 37 after the words “income other than earnings)” there shall be inserted the words “or of any amount which is disregarded under paragraph 52, 53 or 54 of that Schedule”;

(b) after paragraph 45(41) there shall be added the following paragraphs—

(37) Paragraph 51 was added by S.I. 1994/578.

(38) S.I. 1983/883; relevant amending instruments are S.I. 1993/598, 1994/1906.

(39) S.I. 1983/686; relevant amending instruments are S.I. 1994/715, 1994/2021.

(40) Copies of the Dispensing Instruments are available from the Department of Social Security, A1, 6th Floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT.

(41) Paragraph 45 was added by S.I. 1993/688.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“**46.** Any sum of capital administered on behalf of a person under the age of 18 by the High Court under the provisions of Order 80 of the Rules of the Supreme Court(**42**), the County Court under Order 10 of the County Court Rules 1981(**43**), or the Court of Protection, where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents.

47. Any sum of capital administered on behalf of a person under the age of 18 in accordance with an order made under Rule 43.15 of the Act of Sederunt (Rules of the Court of Session 1994) 1994(**44**) or under Rule 131 of the Act of Sederunt (Rules of the Court, consolidation and amendment) 1965(**45**), or under Rule 36.14 of the Ordinary Cause Rules 1993(**46**) or under Rule 128 of the Ordinary Cause Rules(**47**), where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents.”.

Signed by authority of the Secretary of State for Social Security

12th August 1994

William Hague
Minister of State,
Department of Social Security

(42) S.I. 1965/1776; for Order 80 as currently in force *see* “The Supreme Court Practice 1993” ISBN 0-421-46400-3.

(43) S.I. 1981/1687; for Order 10 as currently in force *see* “The County Court Practice 1994” ISBN 0-406-03674-8.

(44) S.I. 1994/1443.

(45) S.I. 1965/321.

(46) First Schedule to the Sheriff Courts (Scotland) Act 1907 (c. 51) as substituted in respect of causes commenced on or after 1st January 1994 by S.I. 1993/1956.

(47) First Schedule to the aforesaid Act of 1907 as substituted by S.I. 1983/747.

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 (Supply of Information) Regulations 1988 (S.I. 1988/662) and the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814).

With respect to housing benefit and council tax benefit,

- (a) they amend the definition of “employed earner” to include a person in receipt of certain payments under Northern Ireland legislation and provide for the deduction of certain contributions under that legislation for the purpose of calculating net earnings (regulations 2, 3, 15 and 16);
- (b) they further specify the amount of income tax to be deducted in calculating certain income (regulations 3, 5, 16 and 18); the amount to be deducted in respect of contributions towards a pension scheme in calculating earnings of employed earners (regulations 3 and 16); and the calculation of earnings of persons who have been in employment for a short period (regulations 3 and 16);
- (c) they exclude payments made to a claimant by certain organisations for providing temporary accommodation and care to a person not normally a member of his household from being treated as earnings of self-employed earners (regulations 4 and 17);
- (d) with respect to determinations and reviews concerning benefit, they amend the definition of “person affected”, and specify that certain requests and written representations are to be made by such a person (regulations 2, 6 to 9, 15 and 22 to 24);
- (e) with respect to the calculation of a person’s applicable amount, they amend references to statutory provisions concerning invalidity pension and retirement pension; and they amend conditions for the award of a severe disability premium where the person caring for the disabled person receives a back-dated payment of invalid care allowance (regulations 11 and 27);
- (f) with respect to the calculation of sums to be disregarded from income other than earnings, they make amendments in respect of the rates of income tax to be deducted from interest due on a loan secured on a person’s dwelling which is used for the purchase of an annuity; and they provide a disregard for certain payments to widows under the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983, the Personal Injuries (Civilians) Scheme 1983 and specified Dispensing Instruments (regulations 12 and 28);
- (g) with respect to the calculation of capital, they provide a disregard of capital administered by the High Court, the County Court or the Court of Protection in England and Wales or the Court of Session or Sheriff Court in Scotland on behalf of a person under the age of 18, which derives from an award of damages for personal injury to that person or for the death of one or both of such a person’s parents (regulations 13 and 29); and they provide a disregard of arrears of payments under the instruments referred to in paragraph (f) above;
- (h) they further specify the information which the Secretary of State may supply to a local authority, so as to include information in relation to a payment of income support which has been withheld (regulations 14 and 25);

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (i) they provide that a local authority shall notify the Secretary of State in certain circumstances where a person claiming housing benefit or council tax benefit, or that person's partner, may be eligible for family credit but it appears that a claim for family credit has not been made (regulations 14 and 26).

With respect to housing benefit they further define the term "landlord" in respect of certain payments of benefit that may be made to a landlord (regulation 10); and require certain requests and written representations concerning determinations and reviews to be signed by the person making them (regulations 6 to 9).

With respect to council tax benefit they specify the extent to which any local authority may in exceptional circumstances increase a person's maximum council tax benefit, and omit the provision under which a local authority may modify the Council Tax Benefit (General) Regulations 1992 so that it may in exceptional circumstances make such an increase (regulations 19 to 21).

These Regulations do not impose a charge on businesses.