
STATUTORY INSTRUMENTS

2003 No. 325

**The Housing Benefit and Council Tax Benefit
(State Pension Credit) Regulations 2003**

PART 5

Consequential and Transitional Provisions

Date on which change of circumstances takes effect

22.—(1) The Housing Benefit Regulations shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 68(1) (date on which change of circumstances is to take effect)—

- (a) in paragraph (1), for the words “and subject to paragraphs (2) to (8)”, substitute “and subject to the following provisions of this regulation”;
- (b) after paragraph (8), add the following paragraphs—

“(9) Paragraph (10) applies if—

- (a) the claimant or his partner has attained the age of 65; and
- (b) since the date in respect of which the claimant’s entitlement to housing benefit first began or, if later, the anniversary date—
 - (i) a non-dependant took up residence in the claimant’s dwelling; or
 - (ii) the income of a non-dependant increased so that the amount of the deduction which falls to be made under regulation 63 increased.

(10) Where this paragraph applies, the change of circumstances shall take effect from the next anniversary date following the change specified in paragraph (9)(b).

(11) In paragraphs (9) and (10) but subject to paragraph (12), “anniversary date” means—

- (a) in the case of a person whose entitlement to housing benefit began before 6th October 2003, the anniversary of the date of the last decision made by the relevant authority before 6th October 2003 awarding the claimant housing benefit; or
- (b) in the case of a person who claimed housing benefit on or after 6th October 2003 but before 6th October 2004 and whose award took effect from 6th October 2003, the anniversary of the date the decision on that claim was made by the relevant authority; or
- (c) in any other case, the anniversary of the date in respect of which the claimant’s entitlement to housing benefit first began.

(12) If in any particular case the date determined under sub-paragraphs (a) to (c) of sub-paragraph (11) is not the first day of a benefit week, the anniversary date in that case shall be the first day of the next benefit week to commence after the date determined under those paragraphs.”

(3) After regulation 68A(2), insert—

“Change of circumstances where state pension credit payable

68B.—(1) Paragraphs (2) to (8) apply where—

- (a) the claimant is also on state pension credit;
- (b) the amount of state pension credit awarded to him is changed in consequence of a change in the claimant’s circumstances or the correction of an official error; and
- (c) the change in the amount of state pension credit payable to the claimant results in a change in the rate of housing benefit payable to the claimant.

(2) Where the change of circumstance is that an increase in the amount of state pension credit payable to the claimant results in an increase in the rate at which housing benefit is payable to him, the change shall take effect from the first day of the benefit week in which state pension credit becomes payable at the increased rate.

(3) Where the change of circumstance is that the claimant’s state pension credit is reduced and in consequence the rate of housing benefit payable to the claimant reduces—

- (a) in a case where the claimant’s state pension credit is reduced because the claimant failed to notify the Secretary of State timeously of the change of circumstances, the change shall take effect from the first day of the benefit week from which state pension credit was reduced; or
- (b) in any other case, the change shall take effect from the first day of the benefit week next following the date on which the local authority receives notification from the Secretary of State of the change.

(4) Where the change of circumstance is that—

- (a) state pension credit is reduced; and
- (b) in consequence of the change, the rate of housing benefit payable to the claimant is increased,

the change shall take effect from the first day of the benefit week in which state pension credit becomes payable at the reduced rate.

(5) Where the change of circumstance is that an award of state pension credit has been made to the claimant or his partner and this has resulted in a decrease in the rate of housing benefit payable to the claimant, the change shall take effect from the first day of the benefit week next following the date on which the local authority receives notification from the Secretary of State of the award.

(6) Where the change of circumstance is that a guarantee credit has been awarded to the claimant or his partner and this has resulted in an increase in the rate of housing benefit payable to the claimant, the change shall take effect from the first day of the benefit week next following the date in respect of which the guarantee credit is first payable.

(7) Where a change of circumstances would, but for this paragraph, take effect under the preceding provisions of this regulation within the 4 week period specified in regulation 62B (continuing payments where state pension credit claimed), that change shall take effect on the first day of the first benefit week to commence after the expiry of the 4 week period.

- (8) In paragraph (1) “official error” has the meaning it has in the Decisions and Appeals Regulations by virtue of regulation 1(2) of those Regulations.”
- (4) The Council Tax Benefit Regulations shall be amended in accordance with paragraphs (5) and (6).
- (5) In regulation 59(3) (date on which change of circumstances takes effect)—
- (a) in paragraph (1), for the words “and subject to paragraphs (2) to (9)”, substitute “and subject to the following provisions of this regulation”;
 - (b) after paragraph (9), add the following paragraphs—
 - “(10) Paragraph (11) applies if—
 - (a) the claimant or his partner has attained the age of 65; and
 - (b) since the date in respect of which the claimant’s entitlement to council tax benefit first began or, if later, the anniversary date—
 - (i) a non-dependant took up residence in the claimant’s dwelling; or
 - (ii) the income of a non-dependant increased so that the amount of the deduction which falls to be made under regulation 52 increased.
 - (11) Where this paragraph applies, the change of circumstances shall take effect from the next anniversary date following the change specified in paragraph (10)(b).
 - (12) In paragraphs (10) and (11) but subject to paragraph (13), “anniversary date” means—
 - (a) in the case of a person whose entitlement to council tax benefit began before 6th October 2003, the anniversary of the date of the last decision made by the relevant authority before 6th October 2003 awarding the claimant council tax benefit;
 - (b) in the case of a person who claimed council tax benefit on or after 6th October 2003 but before 6th October 2004 and whose award took effect from 6th October 2003, the anniversary of the date the decision on that claim was made by the relevant authority; or
 - (c) in any other case, the anniversary of the date in respect of which the claimant’s entitlement to council tax benefit first began.
 - (13) If in any particular case the date determined under sub-paragraphs (a) to (c) of sub-paragraph (12) is not the first day of a benefit week, the anniversary date in that case shall be the first day of the next benefit week to commence after the date determined under those paragraphs.”
- (6) After regulation 59A(4), insert—

“Change of circumstances where state pension credit in payment

- 59B.**—(1) Paragraphs (2) to (8) apply where—
- (a) the claimant is also on state pension credit;
 - (b) the amount of state pension credit awarded to him is changed in consequence of a change in the claimant’s circumstances or the correction of an official error; and
 - (c) the change in the amount of state pension credit payable to the claimant results in a change in the rate at which council tax benefit is allowed to him.

(3) Relevant amending Instruments are [S.I. 1994/578](#) and [1995/511](#).

(4) Regulation 59A was inserted by [S.I. 2000/897](#).

(2) Where the change of circumstance is that an increase in the amount of state pension credit payable to the claimant results in an increase in the rate at which council tax benefit is allowed to him, the change shall take effect from the first day of the benefit week in which state pension credit becomes payable at the increased rate.

(3) Where the change of circumstance is that the claimant's state pension credit has been reduced and in consequence the rate of council tax benefit allowed to the claimant reduces—

- (a) in a case where the claimant's state pension credit is reduced because the claimant failed to notify the Secretary of State timeously of the change of circumstances, the change shall take effect from the first day of the benefit week from which state pension credit was reduced; or
- (b) in any other case, the change shall take effect from the first day of the benefit week next following the date on which the local authority receives notification from the Secretary of State of the change.

(4) Where the change of circumstance is that state pension credit is reduced and in consequence of the change, the rate of council tax benefit allowed to the claimant is increased, the change shall take effect from the first day of the benefit week in which state pension credit becomes payable at the reduced rate.

(5) Where the change of circumstance is that an award of state pension credit has been made to the claimant or his partner and this has resulted in a decrease in the rate of council tax benefit payable to the claimant, the change shall take effect from the first day of the benefit week next following the date on which the local authority receives notification from the Secretary of State of the award.

(6) Where the change of circumstance is that a guarantee credit has been awarded to the claimant or his partner and this has resulted in an increase in the rate of council tax benefit payable to the claimant, the change shall take effect from the first day of the benefit week next following the date in respect of which the guarantee credit is first payable.

(7) Where a change of circumstances would, but for this paragraph, take effect under the preceding provisions of this regulation within the 4 week period specified in regulation 53B (continuing payments where state pension credit claimed), that change shall take effect on the first day of the first benefit week to commence after the expiry of the 4 week period.

(8) In paragraph (1), "official error" has the meaning it has in the Decisions and Appeals Regulations by virtue of regulation 1(2) of those Regulations."

Time claims are made or treated as made

23. In regulation 72 of the Housing Benefit Regulations and regulation 62 of the Council Tax Benefit Regulations (time and manner in which claims are to be made)—

- (a) in paragraph (5) of both regulations—
 - (i) in sub-paragraph (a), after the words "income support" insert ", state pension credit which comprises a guarantee credit";
 - (ii) after sub-paragraph (aa)(5) insert—
 - “(aaa) in a case where the claimant or his partner claimed state pension credit and either there was no entitlement to state pension credit or there was entitlement only to a savings credit, the date on which the claim is received at the appropriate DWP office or the designated office whichever is the earlier;”;

(5) Relevant amending Instruments are [S.I. 1996/1510](#) and [2003/48](#).

- (b) in paragraph (5)(bb) of regulation 72 and in paragraph (5)(c) of regulation 62, after the words “income support”, insert “, in receipt of a guarantee credit”;
- (c) after paragraph (11) of regulation 72, insert—
 - “(11A) In the case of a person who has attained, or whose partner has attained, the age of 59 years and 35 weeks, paragraph (11) shall apply as if for the reference to the thirteenth benefit week, there was substituted a reference to the seventeenth benefit week.”;
- (d) after paragraph (12) of regulation 62, insert—
 - “(12A) In the case of a person who has attained, or whose partner has attained, the age of 59 years and 35 weeks, paragraph (12) shall apply as if for the reference to the thirteenth benefit week, there was substituted a reference to the seventeenth benefit week.”.

Notification of change of circumstances

24.—(1) In regulation 75 of the Housing Benefit Regulations (duty to notify change of circumstances)—

- (a) in paragraph (1), for the words “(2) and (4)”, substitute “(2), (4) to (6)”;
- (b) after paragraph (4)(6), add—
 - “(5) A person on housing benefit who is also on state pension credit must report—
 - (a) changes to his tenancy, but not changes in the amount of rent payable to a housing authority;
 - (b) changes affecting the residence or income of any non-dependant normally residing with the claimant or with whom the claimant normally resides;
 - (c) any absence from the dwelling which exceeds or is likely to exceed 13 weeks.
 - (6) In addition to the changes required to be reported under paragraph (5), a person whose state pension credit comprises only a savings credit must also report—
 - (a) changes affecting a child living with him which may result in a change in the amount of housing benefit payable in his case, but not changes in the age of the child;
 - (b) changes affecting child tax credit, child special allowance or child benefit;
 - (c) any change in the amount of the claimant’s capital to be taken into account which does or may take the amount of his capital to more than £16,000;
 - (d) any change in the income or capital of—
 - (i) a non-dependant whose income and capital are treated as belonging to the claimant in accordance with regulation 20 (circumstances in which income of a non-dependant is to be treated as claimant's); or
 - (ii) a person to whom regulation 23(4)(d) refers,
and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the claimant.
 - (7) A person who is on housing benefit and on state pension credit need only report to the designated office the changes specified in paragraphs (5) and (6).”.
- (2) In regulation 65 of the Council Tax Benefit Regulations (duty to notify change of circumstances)—
 - (a) in paragraph (1), for the words “(2), (4) and (5)”, substitute “(2), (4) to (7)”;

(b) after paragraph (5)(7), add—

“(6) A person entitled to council tax benefit who is also on state pension credit must report—

- (a) changes affecting the residence or income of any non-dependant normally residing with the claimant or with whom the claimant normally resides;
- (b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks.

(7) In addition to the changes required to be reported under paragraph (6), a person whose state pension credit comprises only a savings credit must also report—

- (a) changes affecting a child living with him which may result in a change in the amount of council tax benefit allowed in his case, but not changes in the age of the child;
- (b) changes affecting child tax credit, child special allowance or child benefit;
- (c) any change in the amount of the claimant’s capital to be taken into account which does or may take the amount of his capital to more than £16,000;
- (d) any change in the income or capital of—
 - (i) a non-dependant whose income and capital are treated as belonging to the claimant in accordance with regulation 12 (circumstances in which income of a non-dependant is to be treated as claimant's); or
 - (ii) a person to whom regulation 15(4)(d) refers,
 and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the claimant.

(8) A person who is entitled to council tax benefit and on state pension credit need only report to the designated office the changes specified in paragraphs (6) and (7).”.

Decisions

25.—(1) In both Part II of Schedule 6 to the Housing Benefit Regulations and Part II of Schedule 6 to the Council Tax Benefit Regulations (awards where income support or an income-based jobseeker’s allowance is payable)—

- (a) in the italicised heading, after the words “income support”, insert “, state pension credit”;
- (b) paragraph 9 shall be renumbered sub-paragraph (1) of paragraph 9;
- (c) in the re-numbered sub-paragraph (1), after the words “income support” insert “, state pension credit”.

(2) After sub-paragraph (1) of paragraph 9 of Schedule 6 to the Housing Benefit Regulations, insert—

“(2) In a case where a person on state pension credit has entitlement only to the savings credit, the following additional matters shall also be set out—

- (a) the applicable amount and the basis of calculation;
- (b) the amount of the savings credit and any child tax credit, child benefit or child special allowance taken into account;
- (c) the amount of the person’s income and capital as notified to the local authority by the Secretary of State and taken into account for the purposes of the housing benefit assessment;

- (d) any modification of the claimant's income or capital made in accordance with regulation 23 (calculation of claimant's income in savings credit only cases);
- (e) the amount of the claimant's capital if paragraph (7) of regulation 23 applies in his case.”.

(3) After sub-paragraph (1) of paragraph 9 of Schedule 6 to the Council Tax Benefit Regulations, insert—

“(2) In a case where a person on state pension credit has entitlement only to the savings credit, the following additional matters shall also be set out—

- (a) the applicable amount and the basis of calculation;
- (b) the amount of the savings credit and any child tax credit, child benefit or child special allowance taken into account;
- (c) the amount of the person's income and capital as notified to the local authority by the Secretary of State and taken into account for the purposes of the council tax benefit assessment;
- (d) any modification of the claimant's income or capital made in accordance with regulation 15 (calculation of claimant's income in savings credit only cases);
- (e) the amount of the claimant's capital if paragraph (7) of regulation 15 applies in his case.”.

Amendments relating to recovery of overpaid housing benefit or excess council tax benefit

26.—(1) In regulation 105 of the Housing Benefit Regulations⁽⁸⁾ (recovery of overpayments from prescribed benefits), in paragraph (1), at the end, add—

“(f) state pension credit.”.

(2) In regulation 91 of the Council Tax Benefit Regulations⁽⁹⁾ (recovery of excess benefit from prescribed benefits), in paragraph (1), at the end, add—

“(d) state pension credit.”.

Minor amendments

27.—(1) In the provisions listed in paragraph (2), after the words “income support”, wherever they occur in those provisions, insert “, state pension credit”.

(2) Those provisions are—

- (a) regulation 4(5) of the Housing Benefit Regulations (remunerative work);
- (b) regulation 93(1)(a)⁽¹⁰⁾ of the Housing Benefit Regulations (circumstances in which payment is to be made to a landlord);
- (c) regulation 4(5) of the Council Tax Benefit Regulations (remunerative work);
- (d) column (1) of the Table set out in paragraph 1(2) of Schedule 2 to the Council Tax Benefit Regulations (second adult dependants).

⁽⁸⁾ Relevant amending Instruments are [S.I. 1988/1971](#) and [1996/1510](#).

⁽⁹⁾ Relevant amending Instrument is [S.I. 1996/1510](#).

⁽¹⁰⁾ Relevant amending Instruments are [S.I. 1996/1510](#) and [2432](#).

Amendment of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

28. In regulation 8 of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001⁽¹¹⁾ (date from which a decision superseding an earlier decision takes effect)—

- (a) in paragraph (2), for the words “in accordance with regulations 68 and 68A of the Housing Benefit Regulations or, as the case may be, regulations 59 and 59A of the Council Tax Benefit Regulations”, substitute “in accordance with regulations 68, 68A or 68B of the Housing Benefit Regulations or, as the case may be, regulations 59, 59A or 59B of the Council Tax Benefit Regulations”;
- (b) in paragraph (3), after “68A”, insert “or 68B” and after “59A”, insert “or 59B”.

Transitional provision

29. A claim for housing benefit or council tax benefit made after the day this regulation comes into force but before 6th October 2004 by a person who has attained or whose partner has attained the qualifying age for state pension credit shall be treated as made—

- (a) on 6th October 2003; or
- (b) on the day that person or, as the case may be, his partner attained the qualifying age for state pension credit,

whichever is the later, if the local authority is satisfied that, on that day, the claimant satisfied the conditions of entitlement to housing benefit or, as the case may be, council tax benefit.

Claims made before 6th October 2003

30.—(1) This regulation applies if—

- (a) a claim is made or treated as made for housing benefit or council tax benefit on or after 6th April 2003;
- (b) the claim is made by a person who has attained, or whose partner has attained, the qualifying age for state pension credit or who will attain or whose partner will attain that age on or before 6th October 2003; and
- (c) the person making the claim does not satisfy the conditions for entitlement to housing benefit or, as the case may be, council tax benefit.

(2) If in the opinion of the local authority determining the claim, the conditions for the benefit claimed will be satisfied on 6th October 2003 unless there is a change in the claimant’s circumstances, the authority may—

- (a) treat the claim as if made for a period beginning on 6th October 2003; and
- (b) award benefit accordingly, but subject to the condition that the claimant does in fact satisfy those conditions when benefit becomes payable under the award.

(3) A decision under paragraph (2)(b) to award benefit may be revised under paragraph 3 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000⁽¹²⁾ if the requirements for entitlement to housing benefit or council tax benefit are found not to have been satisfied on 6th October 2003.

(11) S.I. 2001/1002.

(12) 2000 c. 19.

Existing claimants

31.—(1) In the case of an existing claimant who, on 6th October 2003, has been a patient for more than 6 weeks but not more than 13 weeks—

- (a) regulation 16(2) of the Housing Benefit Regulations, as inserted by regulation 6(1) of these Regulations, shall have effect as if for the reference to “13 weeks” there were substituted a reference to “6 weeks”;
- (b) regulation 8(2) of the Council Tax Benefit Regulations, as inserted by regulation 15(1) of these Regulations, shall have effect as if for the reference to “13 weeks” there were substituted a reference to “6 weeks”.

(2) In this regulation—

- (a) “an existing claimant” is a person who—
 - (i) immediately before 6th October 2003, is entitled to housing benefit or, as the case may be, council tax benefit; and
 - (ii) attains or has attained the qualifying age for state pension credit on or before 6th October 2003;
- (b) “patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975(**13**);
- (c) for the purposes of calculating the period of 6 weeks referred to in paragraph (1), where a person has been maintained free of charge while undergoing medical or other treatment as an in-patient in a hospital or similar institution within the meaning of that paragraph for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been so maintained for a period equal in duration to the total of those distinct periods.