

2004 No. 319

SOCIAL SECURITY

The Housing Benefit and Council Tax Benefit (Extended Payments (Severe Disablement Allowance and Incapacity Benefit)) Amendment Regulations 2004

Made - - - - *9th February 2004*

Laid before Parliament *17th February 2004*

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(2) and (4), 131(10), 135(1), 136(3), (4) and (5), 137(1) and (2)(h) and (j) and 175(1), (3), (4) and (5) of the Social Security Contributions and Benefits Act 1992(a) and sections 5(1)(a), (b), (d), (e), (h), (i) and (k), 6(1)(a), (b), (d), (e), (h), (i) and (l), 189(4) and (5) and 191 of the Social Security Administration Act 1992(b), 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(c) and after consultation with organisations appearing to him to be representative of the authorities concerned(d), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (Extended Payments (Severe Disablement Allowance and Incapacity Benefit)) Amendment Regulations 2004 and shall come into force on 5th April 2004 immediately following the coming into force of the Housing Benefit and Council Tax Benefit (Abolition of Benefit Periods) Amendment Regulations 2004(e).

(2) In these Regulations—

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

(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 130(2) has been amended by paragraph 3 of Schedule 9 to the Local Government Finance Act 1992, paragraph 174(4) of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39) and section 96 of the Local Government Act 2000 (c.22); section 131(10) was substituted by paragraph 4 of Schedule 9 to the Local Government Finance Act 1992; section 137(1) is cited because of the meaning ascribed to the word “prescribed”; section 175 (1) and (4) was amended by paragraph 29(1) 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 5(1)(e) was substituted by paragraph 79(1) of Schedule 7 to the Social Security Act 1998 (c.14); section 6(1) was amended by paragraph 12(1)(a) and (b) of Schedule 9, and Schedule 14 to the Local Government Finance Act 1992; section 189(4) and (5) was amended by paragraph 109 of Schedule 7, and Schedule 8 to the Social Security Act 1998 and section 191 is cited because of the meaning ascribed to the word “prescribe”.

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

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

(e) S.I. 2004/14.

(f) S.I. 1992/1814.

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

Amendment of regulation 2 of the Housing Benefit Regulations and the Council Tax Benefit Regulations

2.—(1) In regulation 2(1) of the Housing Benefit Regulations (interpretation) at the appropriate place insert—

““extended payment (severe disablement allowance and incapacity benefit)” means a payment of housing benefit pursuant to regulation 62ZB;”.

(2) In regulation 2(1) of the Council Tax Benefit Regulations (interpretation) at the appropriate place insert—

““extended payment (severe disablement allowance and incapacity benefit)” means council tax benefit allowed pursuant to regulation 53ZB;”.

Extended payments (severe disablement allowance and incapacity benefit)

3.—(1) After regulation 62A of the Housing Benefit Regulations(b) (extended payments) there shall be inserted—

“ Extended payments (severe disablement allowance and incapacity benefit)

62ZB.—(1) Except in a case in which a person is in receipt of state pension credit, paragraph (2) shall apply where—

- (a) a person ceases to be entitled to housing benefit—
 - (i) in accordance with regulation 65B (date on which entitlement to housing benefit is to end where entitlement to severe disablement allowance or incapacity benefit ceases); and
 - (ii) the condition referred to in paragraph 1 of Schedule 5B is satisfied in his case; or
- (b) a person ceases to be entitled to housing benefit because he has vacated the dwelling which he occupied as his home and the day on which he did so was either in the week in which he took up employment as an employed or self-employed earner, or in the preceding week, and—
 - (i) he ceased to be entitled to severe disablement allowance or incapacity benefit by reason of taking up employment as an employed or self-employed earner;
 - (ii) he had been entitled to and in receipt of severe disablement allowance, incapacity benefit or a combination of severe disablement allowance and incapacity benefit for a continuous period of at least 26 weeks;
 - (iii) he was not entitled to and in receipt of income support; and
 - (iv) the condition referred to in paragraph 1 of Schedule 5B is satisfied in his case.

(2) A person to whom paragraph (1) applies shall be treated as having made a claim under this regulation and his housing benefit shall be determined in accordance with Schedule 5B and any award so determined shall be referred to in these regulations as an “extended payment (severe disablement allowance and incapacity benefit)”.

(3) For the purposes of any payment pursuant to this regulation—

- (a) except in a case to which paragraph (b) applies the maximum housing benefit of any person mentioned in paragraph (1) shall be that which was applicable to him in the last week of the award of housing benefit which has ceased as mentioned in paragraph (1);

(a) S.I. 1987/1971.

(b) Regulation 62A was substituted by S.I. 2004/14.

- (b) the maximum housing benefit of any person the amount of whose extended payment (severe disablement allowance and incapacity benefit) is calculated in accordance with paragraph 6(b)(i) of Schedule 5B shall be determined in accordance with paragraph 7 of that Schedule;
- (c) except in a case to which paragraph (d) applies, any person who meets the requirements of paragraph (1) shall be treated as possessing the same amounts of income and capital as they possessed in the last week of the award of housing benefit which has ceased as mentioned in paragraph (1); and
- (d) any person whose maximum housing benefit is determined in accordance with paragraph 7 of Schedule 5B shall be treated as possessing no income or capital.

(4) Regulations 71, 72 and 73 (claims, evidence and information) shall not apply to a claim pursuant to this regulation and, subject to regulation 69(8)(a), Part IX (calculation of weekly amounts and changes of circumstances) shall not apply to any payment under it.

(5) In paragraph (1), references to a “person” include references to a person’s partner and references to taking up employment include receiving remuneration for employment or an increased amount of remuneration for employment or engaging in employment for an increased number of hours.

(6) In a case where payment has been made under this regulation—

- (a) the beneficiary shall be treated for the purpose of these Regulations and of the Housing Benefit (General) Amendment Regulations 1995(b) as though he were entitled to and in receipt of housing benefit—
 - (i) during the 4 weeks immediately following the last day of his entitlement to housing benefit; or
 - (ii) until the date on which his liability for rent ends, whichever occurs first; and
- (b) any claim for housing benefit made by the beneficiary within the period which under sub-paragraph (a) applies in his case or the 4 weeks thereafter shall be treated as having been made in respect of a period beginning immediately after the end of his previous award of housing benefit.”.

(2) After regulation 53A of the Council Tax Benefit Regulations(c) (extended payments) there shall be inserted—

“ Extended payments (severe disability allowance and incapacity benefit)

53ZB.—(1) Except in a case in which a person is in receipt of state pension credit, paragraph (2) shall apply where—

- (a) a person ceases to be entitled to council tax benefit—
 - (i) in accordance with regulation 56B (date on which entitlement to housing benefit is to end where entitlement to severe disablement allowance or incapacity benefit ceases); and
 - (ii) the condition referred to in paragraph 1 of Schedule 5B is satisfied in his case; or
- (b) a person ceases to be entitled to council tax benefit because he has vacated the dwelling of which he was a resident and the day on which he did so was either in the week in which he took up employment as an employed or self-employed earner, or in the preceding week, and—
 - (i) he ceased to be entitled to severe disablement allowance or incapacity benefit by reason of taking up employment as an employed or self-employed earner;

(a) Relevant amending instruments are S.I. 1994/578 and 1996/194.
 (b) S.I. 1995/1644.
 (c) Regulation 53A was inserted by S.I. 2004/14.

- (ii) he had been entitled to and in receipt of severe disablement allowance, incapacity benefit or a combination of severe disablement allowance and incapacity benefit for a continuous period of at least 26 weeks;
- (iii) he was not entitled to and in receipt of income support; and
- (iv) the condition referred to in paragraph 1 of Schedule 5B is satisfied in his case.

(2) A person to whom paragraph (1) applies shall be treated as having made a claim under this regulation and his council tax benefit shall be determined in accordance with Schedule 5B and any award so determined shall be referred to in these regulations as an “extended payment (severe disablement allowance and incapacity benefit)”.

(3) For the purposes of any payment pursuant to this regulation—

- (a) except in a case to which paragraph 4(a) of Schedule 5B applies, the maximum council tax benefit of any person mentioned in paragraph (1) shall be determined in accordance with paragraph 2 of Schedule 5B;
- (b) the maximum council tax benefit of any person to whom paragraph 4(a) of Schedule 5B applies shall be determined in accordance with paragraph 5 of that Schedule;
- (c) except in a case to which paragraph (d) applies, any person who meets the requirements of paragraph (1) shall be treated as possessing the amount of income and the amount of capital that they possessed in the last week of the award of council tax benefit which has ceased as mentioned in paragraph (1); and
- (d) any person whose maximum council tax benefit is determined in accordance with paragraph 5 of Schedule 5B shall be treated as possessing no income or capital.

(4) Regulations 61, 62 and 63 (claims, evidence and information) shall not apply to a claim pursuant to this regulation and, subject to regulation 51(6)(a) (maximum council tax benefit), Part VII (benefit periods, changes of circumstances and increases for exceptional circumstances) shall not apply to any payment under it.

(5) In paragraph (1), references to a “person” include references to a person’s partner and references to taking up employment include receiving remuneration for employment or an increased amount of remuneration for employment or engaging in employment for an increased number of hours.

(6) In a case where payment has been made under this regulation—

- (a) the beneficiary shall be treated for the purpose of these Regulations as though he were entitled to and in receipt of council tax benefit—
 - (i) during the 4 weeks immediately following the last day of his entitlement to housing benefit; or
 - (ii) until the date on which his liability for council tax ends, whichever occurs first; and
- (b) any claim for council tax benefit made by the beneficiary within the period which under sub-paragraph (a) applies in his case or the 4 weeks thereafter shall be treated as having been made in respect of a period beginning immediately after the end of his previous award of council tax benefit.”.

Date on which award of benefit is to end where entitlement to severe disablement allowance or incapacity benefit ceases

4.—(1) After regulation 65A of the Housing Benefit Regulations**(b)** (date on which housing benefit is to end) there shall be inserted—

(a) Paragraph (6) of regulation 51 was inserted by S.I. 1996/194.
(b) Regulation 65A was inserted by S.I. 2004/14.

“Date on which housing benefit is to end where entitlement to severe disability allowance or incapacity benefit ceases

65B. Except in a case in which the claimant or his partner is in receipt of state pension credit, a claimant’s entitlement to housing benefit shall cease at the end of the benefit week in which entitlement to severe disablement allowance or incapacity benefit ceases where—

- (a) the claimant or his partner was not entitled to and in receipt of income support but was entitled to and in receipt of severe disablement allowance or incapacity benefit and that entitlement has ceased;
- (b) that entitlement to severe disablement allowance or incapacity benefit has ceased by reason of the claimant or his partner—
 - (i) commencing employment as an employed or self-employed earner; or
 - (ii) increasing their earnings from such employment; or
 - (iii) increasing the number of hours worked in such employment;
- (c) the claimant had been entitled to and in receipt of severe disablement allowance or incapacity benefit for a continuous period of at least 26 weeks before the day on which his entitlement to severe disablement allowance or incapacity benefit ceased, and for the purposes of this sub-paragraph—
 - (i) a claimant satisfies the conditions of this sub-paragraph if he has been entitled to and in receipt of a combination of severe disablement allowance and incapacity benefit for at least 26 weeks;
 - (ii) references to the claimant include references to his partner; and
- (d) that work, increase in earnings, or as the case may be, increase in hours is expected to last at least 5 weeks or more.”.

(2) After regulation 56A of the Council Tax Benefit Regulations^(a) (date on which council tax benefit is to end) there shall be inserted—

“Date on which council tax benefit is to end where entitlement to severe disability allowance or incapacity benefit ceases

56B. Except in a case in which the claimant or his partner is in receipt of state pension credit, a claimant’s entitlement to council tax benefit shall cease at the end of the benefit week in which entitlement to severe disablement allowance or incapacity benefit ceases where—

- (a) the claimant or his partner was not entitled to and in receipt of income support but was entitled to and in receipt of severe disablement allowance or incapacity benefit and that entitlement has ceased;
- (b) that entitlement to severe disablement allowance or incapacity benefit has ceased by reason of the claimant or his partner—
 - (i) commencing employment as an employed or self-employed earner; or
 - (ii) increasing their earnings from such employment; or
 - (iii) increasing the number of hours worked in such employment;
- (c) the claimant had been entitled to and in receipt of severe disablement allowance or incapacity benefit for a continuous period of at least 26 weeks before the day on which his entitlement to severe disablement allowance or incapacity benefit ceased, and for the purposes of this sub-paragraph—
 - (i) a claimant satisfies the conditions of this sub-paragraph if he has been entitled to and in receipt of a combination of severe disablement allowance and incapacity benefit for at least 26 weeks;

^(a) Regulation 56A was inserted by S.I. 2004/14.

- (ii) references to the claimant include references to his partner; and
- (d) that work, increase in earnings, or as the case may be, increase in hours is expected to last at least 5 weeks or more.”.

Amendment of regulation 69 of the Housing Benefit Regulations and regulation 51 of the Council Tax Benefit Regulations

5.—(1) In regulation 69(8) of the Housing Benefit Regulations (calculation of weekly amounts)—

- (a) after the words “extended payment” insert “or an extended payment (severe disablement allowance and incapacity benefit)”; and
- (b) after the words “Part III of Schedule 5A” insert “or paragraph 9 of Schedule 5B, as the case may be”.

(2) In regulation 51(6) of the Council Tax Benefit Regulations (maximum council tax benefit)—

- (a) after the words “extended payment” insert “or an extended payment (severe disablement allowance and incapacity benefit)”; and
- (b) after the words “Part III of Schedule 5A” insert “or paragraph 6 of Schedule 5B, as the case may be”.

Insertion of Schedule 5B into the Housing Benefit Regulations and the Council Tax Benefit Regulations

6.—(1) After Schedule 5A to the Housing Benefit Regulations(**a**) (extended payments of housing benefit) insert the new Schedule 5B (which deals with extended payments (severe disablement allowance and incapacity benefit) of housing benefit) set out in Schedule 1 to these Regulations.

(2) After Schedule 5A to the Council Tax Benefit Regulations(**b**) (extended payment of council tax benefit) insert the new Schedule 5B (which deals with extended payments (severe disablement allowance and incapacity benefit) of council tax benefit) set out in Schedule 2 to these Regulations.

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

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

9th February 2004

(**a**) Schedule 5A was inserted by S.I. 1996/194.
(**b**) Schedule 5A was inserted by S.I. 1996/194.

SCHEDULE 1

“SCHEDULE 5B

EXTENDED PAYMENTS (SEVERE DISABLEMENT ALLOWANCE AND INCAPACITY BENEFIT) OF HOUSING BENEFIT

Condition for an extended payment (severe disablement allowance and incapacity benefit)

1. The condition prescribed in this paragraph is that the claimant or the claimant's partner—

(a) notifies either the designated office or an appropriate DWP office that he or his partner—

(i) has commenced, or is about to commence, remunerative work;

(ii) has commenced, or is about to commence, receiving remuneration for work or an increased amount of remuneration for work; or

(iii) has commenced, or is about to commence, an increased number of hours of work,

so that entitlement to severe disablement allowance or incapacity benefit ceases and that work, or as the case may be, remuneration, is expected to last 5 weeks or more; and

(b) the notification is made no later than 4 weeks after the day on which the claimant or his partner first undertakes the remunerative work referred to in sub-paragraph (a)(i), first receives remuneration for the work or an increased amount of remuneration for the work referred to in sub-paragraph (a)(ii), or first commences the increased number of hours of work referred to in sub-paragraph (a)(iii).

Calculation and payment of an extended payment (severe disablement allowance and incapacity benefit)

2.—(1) Subject to the following provisions of this paragraph and except in the case of a mover, the amount of the extended payment (severe disablement allowance and incapacity benefit) shall be equal to the amount of housing benefit which was payable to the claimant for the last benefit week before he ceased to be entitled to housing benefit.

(2) In a case where the last benefit week referred to in sub-paragraph (1) fell, in whole or in part, within a rent free period, the last benefit week for the purposes of that sub-paragraph shall be taken to be the last benefit week that did not fall within a rent free period.

(3) Where the last benefit week before he ceased to be entitled to housing benefit was a week in which the claimant's eligible rent was calculated in accordance with regulation 69(5)(c)(a) (claimant ceases to occupy the dwelling as his home), sub-paragraph (1) shall have effect as if the reference to the last benefit week before he ceased to be entitled to housing benefit was a reference to the week before that week.

(4) Subject to paragraph (5), the extended payment (severe disablement allowance and incapacity benefit) shall be payable for each of the weeks in the period specified in regulation 62ZB(6)(a), and shall be paid at such time and in such manner as is appropriate, having regard to—

(a) the times at which and the frequency with which a person's liability to make payment of rent arises; and

(a) Regulation 69(5)(c) was amended by S.I. 1990/546.

(b) the reasonable needs and convenience of the person entitled thereto.

(5) No extended payment (severe disablement allowance and incapacity benefit) shall be payable for a week which is a rent free period for the purposes of regulation 70(1)(a).

Movers

3. Paragraphs 4 to 6 below apply to movers from—

- (a) the day the move takes place where that day is a Monday; or
- (b) from the Monday following the day the move takes place where that day is not a Monday.

Movers and rent allowances

4.—(1) Subject to sub-paragraph (2), in the case of a mover whose housing benefit was in the form of a rent allowance, the authority which, prior to the mover ceasing to be entitled to housing benefit, was paying that allowance, shall make an extended payment (severe disablement allowance and incapacity benefit) to that mover calculated on the same basis as in paragraph 2, and, for these purposes, the mover shall be treated as continuing to occupy and be liable to make payments in respect of the dwelling he was occupying as his home immediately before he ceased to be entitled to housing benefit.

(2) Notwithstanding sub-paragraph (1), in a case where that mover's liability to make payments in respect of the second dwelling would be to a housing authority, any extended payment (severe disablement allowance and incapacity benefit) shall be made by that housing authority and shall be determined as provided in paragraph 6(b).

Movers and rent rebates

5. Where, in the case of a mover—

- (a) his housing benefit was in the form of a rent rebate; and
- (b) he claims an extended payment (severe disablement allowance and incapacity benefit),

the authority in which the second dwelling is situated, or as the case may be, where the mover's liability to make payments in respect of the second dwelling is to a housing authority, that housing authority, shall upon receiving the mover's claim for an extended payment (severe disablement allowance and incapacity benefit), which meets the requirements of regulation 62ZB(1), make an extended payment (severe disablement allowance and incapacity benefit), calculated in accordance with paragraph 6, to that mover.

Movers and extended payments (severe disablement allowance and incapacity benefit)

6. In a case to which paragraph 4(2) or 5 applies and where a mover's liability referred to in that paragraph is—

- (a) other than to a housing authority, the extended payment (severe disablement allowance and incapacity benefit) shall be a payment by way of rent allowance calculated in accordance with paragraph 2;
- (b) to a housing authority, the extended payment (severe disablement allowance and incapacity benefit) shall be by way of a rent rebate to the value of the lesser of—
 - (i) such part of the rent in respect of the period specified in regulation 62ZB(6)(a) as is eligible for housing benefit, calculated in accordance with regulations 8 to 11, less, in a case where the rebate to which paragraph 5 refers, or the rent

(a) Paragraph (1) of regulation 70 was substituted by S.I. 1990/546.

allowance to which paragraph 4 refers, as the case may be, was subject to any deductions in respect of non-dependants pursuant to regulations 61(1)(a) and 63(b), the amount of those deductions; or

- (ii) the amount of extended payment (severe disablement allowance and incapacity benefit) calculated in accordance with paragraph 2.

Maximum housing benefit

7. The maximum housing benefit of a mover the amount of whose extended payment (severe disablement allowance and incapacity benefit) is calculated in accordance with paragraph 6(b)(i) shall be calculated in accordance with regulation 61(1), save that no deduction shall be made in respect of non-dependants, other than any that fall to be taken into account pursuant to paragraph 6(b)(i).

Movers with two homes

8. Subject to paragraph 9, any extended payment (severe disablement allowance and incapacity benefit) shall be without prejudice to any entitlement the claimant may have pursuant to regulation 5(5)(c) (liability to make payments in respect of two homes).

Adjustment of entitlement in respect of an extended payment (severe disablement allowance and incapacity benefit)

9. Where for any week—

- (a) a person is entitled to an extended payment (severe disablement allowance and incapacity benefit), and
- (b) he also claims and is awarded housing benefit,

then the amount of the housing benefit payable in respect of that week shall be reduced by a sum equal to the amount of the extended payment (severe disablement allowance and incapacity benefit) and only the balance, if any, shall be payable to him for that week.

Interpretation

10. In this Schedule—

“claimant” means a person claiming an extended payment (severe disablement allowance and incapacity benefit);

“mover” means a claimant who changes the dwelling which he occupies as his home in respect of which he is liable or treated as liable to make payments;

“second dwelling” means the dwelling to which a person has moved, or is about to move, which he is or will be occupying as his new home, and where the liability to make payments of rent in respect of his dwelling follows on immediately from the liability to make payments of rent in respect of his previous dwelling.”.

(a) Relevant amending instruments are S.I. 1990/546, 1994/578 and 2001/1605.

(b) Amending instruments are 1989/416, 1990/546 and 1775, 1991/235, 1992/50 and 2148, 1993/317, 963 and 1249, 1996/1510 and 2518, 1998/563, 2000/440 and 2003/325, 526, 1195 and 2275.

(c) Relevant amending instruments are S.I. 1990/1549, 1993/317 and 1997/2197.

SCHEDULE 2

“SCHEDULE 5B

EXTENDED PAYMENTS (SEVERE DISABLEMENT ALLOWANCE AND INCAPACITY BENEFIT) OF COUNCIL TAX BENEFIT

Condition for an extended payment (severe disablement allowance and incapacity benefit)

1. The condition prescribed in this paragraph is that the claimant or the claimant's partner—

- (a) notifies either the designated office or an appropriate DWP office that he or his partner—
 - (i) has commenced, or is about to commence, remunerative work;
 - (ii) has commenced, or is about to commence, receiving remuneration for work or an increased amount of remuneration for work; or
 - (iii) has commenced, or is about to commence, an increased number of hours of work,so that entitlement to severe disablement allowance or incapacity benefit ceases and that work, or as the case may be, remuneration, is expected to last 5 weeks or more; and
- (b) the notification is made no later than 4 weeks after the day on which the claimant or his partner first undertakes the remunerative work referred to in sub-paragraph (a)(i), first receives remuneration for the work or an increased amount of remuneration for the work referred to in sub-paragraph (a)(ii), or first commences the increased number of hours of work referred to in sub-paragraph (a)(iii).

Calculation and payment of an extended payment (severe disablement allowance and incapacity benefit)

2. Except in the case of a mover, the amount of the extended payment (severe disablement allowance and incapacity benefit) shall be equal to the amount of council tax benefit allowed to the claimant for the last benefit week before he ceased to be entitled to council tax benefit.

Movers

3. In the case of a mover who claims an extended payment (severe disablement allowance and incapacity benefit) the relevant authority to whom the mover is liable to pay council tax in respect of the second dwelling shall, upon receiving the mover's claim for an extended payment (severe disablement allowance and incapacity benefit) which meets the requirements of regulation 53ZB(1), allow an extended payment (severe disablement allowance and incapacity benefit) calculated in accordance with paragraph 4 to the mover.

4. In a case to which paragraph 3 applies the amount of the extended payment (severe disablement allowance and incapacity benefit) shall be the lesser of—

- (a) the amount required to discharge such part of the liability for council tax for the period specified in regulation 53ZB(6)(a), less, in a case where the rebate to which paragraph 2 refers was subject to any deductions in relation to non-dependants pursuant to regulations 51(1)(a) and 52(b), the amount of those deductions; or
- (b) the amount of extended payment (severe disablement allowance and incapacity benefit) calculated in accordance with paragraph 2.

5. The maximum council tax benefit of a mover the amount of whose extended payment (severe disablement allowance and incapacity benefit) is calculated in accordance with paragraph 4(a) shall be calculated in accordance with regulation 51(1), save that no deduction shall be made in respect of non-dependants, other than any that fall to be taken into account pursuant to paragraph 4(a).

Adjustment of entitlement in respect of an extended payment (severe disablement allowance and incapacity benefit)

6. Where an extended payment (severe disablement allowance and incapacity benefit) has been allowed and the person to whom it was made has also claimed council tax benefit for a period that includes any part of the period specified in regulation 53ZB(6)(a), the entitlement to council tax benefit, if any, of that claimant, in respect of each or any of those weeks, shall be reduced by the amount that that extended payment (severe disablement allowance and incapacity benefit) has discharged his council tax liability, in respect of any such week.

Interpretation

7. In this Schedule—

“claimant” means a person claiming an extended payment (severe disablement allowance and incapacity benefit);

“mover” means a claimant who changes the dwelling in which he is resident and in respect of which he is liable to pay council tax;

“second dwelling” means the dwelling to which a person has moved, or is about to move, in which he is or will be resident, and where the liability to pay council tax in respect of his dwelling follows on immediately from the liability to pay council tax in respect of his previous dwelling.”.

(a) Regulation 51(1) was amended by S.I. 1996/194.

(b) Amending instruments are 1993/688, 963 and 1249, 1996/1510 and 2518, 2000/440, 2001/1605 and 2003/325, 526, 1195 and 2275.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) (“the Housing Benefit Regulations”) and the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814) (“the Council Tax Benefit Regulations”).

Regulation 2 inserts new definitions in the Housing Benefit Regulations and the Council Tax Benefit Regulations.

Regulation 3 inserts regulations 62ZB and 53ZB in the Housing Benefit Regulations and Council Tax Benefit Regulations respectively which provide for extended payments (severe disablement allowance and incapacity benefit) in certain cases in which entitlement to housing benefit and council tax benefit ceases.

Regulation 4 inserts regulations 65B and 56B in the Housing Benefit Regulations and Council Tax Benefit Regulations respectively which provide for circumstances in which entitlement to housing benefit and council tax benefit are to end where entitlement to incapacity benefit or severe disablement allowance ceases.

Regulation 5 makes minor amendments to regulations 69 and 51 of the Housing Benefit Regulations and Council Tax Benefit Regulations respectively, to provide for adjustment of entitlement to housing benefit or council tax benefit where a claimant has received an extended payment (severe disablement allowance and incapacity benefit).

Regulation 6 inserts Schedules 5B into the Housing Benefit Regulations and the Council Tax Benefit Regulations. The Schedules provide for the notification which must be given, calculation and payment of extended payments (severe disablement allowance and incapacity benefit), adjustment of entitlement and the treatment of movers.

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

£3.00

© Crown copyright 2004

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.
E0173 2/2004 140173T 19585

ISBN 0-11-048668-4



9 780110 486680