

**2005 No. 2894**

**SOCIAL SECURITY**

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

<i>Made</i> - - - -	<i>13th October 2005</i>
<i>Laid before Parliament</i>	<i>20th October 2005</i>
<i>Coming into force</i> - -	<i>10th November 2005</i>

The Secretary of State for Work and Pensions, makes the following Regulations in exercise of the powers conferred upon him by sections 130(2), 135(5) and (6), 136(4), (5)(a) and (b), 136A(3), 137(c) and (d), 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a), sections 5(1)(a), (b), (hh), (i) and (k), 6(1)(a), (b), (hh) and (l), 7A(1)(a) and (2)(b), 189(1) and (4) and 191 of the Social Security Administration Act 1992(b), section 79(1) and (8) of the Social Security Act 1998(c) and paragraphs 1, 13, 14, 15, 20 and 23 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(d).

In accordance with section 176(1)(b) of that Social Security Administration Act 1992 he has consulted with organisations appearing to him to be representative of the authorities concerned. In accordance with section 173(1)(b) of that Act he has sought the agreement of the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it.

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No.4) Regulations 2005 and shall come into force on 10th November 2005.

(2) In these Regulations—

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

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

“the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations” means the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(g).

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(a) 1992 (c.4). Section 136A was inserted by Schedule 2, paragraph 3 of the State Pension Credit Act 2002 (c.16).  
(b) 1992 (c.5). Paragraph (hh) was inserted into s.5(1) by s.74 of the Social Security Act 1998 (c.14). Paragraph (hh) was inserted into s.6(1) by paragraph 21(2) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000 (c.19). Section 7A was inserted by Schedule 8 to the Welfare Reform and Pensions Act 1999 (c. 30). Section 191 is cited for the meaning given to the word “prescribe”.  
(c) 1998 (c.14). Section 79(1) was amended by paragraph 31, Schedule 4 to the Tax Credits Act 2002 (c.21).  
(d) 2000 (c.19).  
(e) S.I. 1992/1814.  
(f) S.I. 1987/1971.  
(g) S.I. 2001/1002.

## **Amendment of the Housing Benefit Regulations**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) In regulation 34(1)(h) (capital treated as income) for “review” substitute “revision or supersession”.

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

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(a) S.I 2003/325. The relevant amending instrument is S.I 2003/2275.

(b) The relevant amending instrument is S.I. 2002/1397.

(c) Regulation 21A was inserted by S.I. 1994/1924. The relevant amending instrument is S.I. 1999/920.

(d) Relevant amending instruments are S.I. 1992/2148 and S.I. 1994/2137.

(e) The relevant amending instrument is S.I. 2003/2275.

(f) Relevant amending instruments are S.I. 1992/2148, S.I. 1993/2118 and S.I. 1994/2137.

(g) The relevant amending instrument is S.I. 2003/2275.

(h) The relevant amending instrument is S.I. 1990/671.

(i) Relevant amending instruments are S.I. 1992/2148 and S.I 1994/2137.

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

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

(14) In regulation 59(a) (income treated as capital)—

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

(b) after paragraph (3), insert—

“(4) In sub-paragraph (3)—

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

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

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

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

(a) in paragraph (4)—

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

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

(b) in paragraph (5)—

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

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

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

(ccc) except where sub-paragraph (a), (bb) or (cc) is satisfied, in a case where a properly reasonable, of the date on which the claim form was issued following the claimant first notifying, by whatever means, a designated office, an authorised office or an appropriate DWP office of his intention of making a claim, the date of first notification; and”; and completed claim is received in a designated office, an authorised office or an appropriate DWP office within one month, or such longer period as the relevant authority considers

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

(c) in paragraph (8)(a)—

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

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

(d) after paragraph (17) add—

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

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(a) Regulation 59 was inserted by S.I. 2000/1922.

(b) Relevant amending instruments are S.I. 1990/671, S.I. 1996/1510, S.I. 2002/1497, S.I. 2003/48, S.I. 2003/325, S.I. 2003/1632 and S.I. 2004/3368.

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

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

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

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

(a) in paragraph 13—

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

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

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

(a) a charitable payment;

(b) a voluntary payment;

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

(d) a payment under an annuity purchased—

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

(ii) from funds derived from a payment made,

in consequence of any personal injury to the claimant; or

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

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

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

(b) in paragraph 33, omit “paragraph 13(1)”.

### **Amendment of the Council Tax Benefit Regulations**

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

(2) The amendments made by paragraphs (5), (7), (9) and (13) are to the Council Tax Benefit Regulations as modified in their application to persons to whom regulation 12(1) of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003(e) applies.

(3) In regulation 2(f) (interpretation) in the definition of “appropriate social security office” after “Pensions” insert “dealing with state pension credit or an office”.

(4) In regulation 13A(g) (treatment of childcare charges)—

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

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(a) Relevant amending instruments are S.I. 1995/2868 and S.I. 2001/1605.

(b) Relevant amending instruments are S.I. 1996/965 and S.I. 2001/1605.

(c) Schedule 2A was inserted by S.I. 2003/325.

(d) Relevant amending instruments are S.I. 1990/1775, S.I. 1991/1599, S.I. 1991/2695, S.I. 1993/317, S.I. 1996/462, S.I. 1998/563, S.I. 2002/2442, S.I. 2004/2308 and S.I. 2005/273.

(e) S.I. 2003/325. The relevant amending instrument is S.I. 2003/2275.

(f) The relevant amending instrument is S.I. 2002/1397.

(g) Regulation 13A was inserted by S.I. 1994/1924. The relevant amending instrument is S.I. 1999/920.

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

(5) In regulation 19(10)(c) (treatment of childcare charges) in paragraph (6)(c) for “28 weeks immediately preceding the date of claim” substitute “the period beginning 28 weeks before the first Monday in September following that person’s fifteenth birthday and ending on the day preceding the first Monday in September following that person’s sixteenth birthday.”.

(6) In regulation 20(4)(a)(a) (calculation of net earnings of employed earners), for “in the year of assessment in which the claim was made”, substitute “applicable to the assessment period”.

(7) In regulation 23(5)(a)(b) (calculation of net earnings of employed earners), for “in the year of assessment in which the claim was made”, substitute “applicable to the assessment period”.

(8) In regulation 23(1)(c) (deduction of tax and contributions of self-employed earners)—

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

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

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

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

(9) In regulation 27(1)(d) (deduction of tax and contributions of self-employed earners)—

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

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

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

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

(10) In regulation 25(1) of the Council Tax Benefit regulations (capital treated as income) for “review” substitute “revision or supersession”.

(11) In regulation 26(7)(a)(e) (notional income), for “in the year of assessment in which the claim was made” substitute “applicable to the assessment period”.

(12) In regulation 32(b)(i) (calculation of capital in the United Kingdom) for “review” substitute “revision or supersession”.

(13) In regulation 32(b)(i) (calculation of capital in the United Kingdom) for “review” substitute “revision or supersession”.

(14) In regulation 49(f) (income treated as capital)—

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

(b) after paragraph (3), insert—

“(4) In sub-paragraph (3)—

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

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

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(a) Relevant amending instruments are S.I. 1993/688 and S.I. 1994/2137.

(b) The relevant amending instrument is S.I. 2003/2275.

(c) Relevant amending instruments are S.I. 1993/688, S.I. 1993/2118 and S.I. 1994/2137.

(d) The relevant amending instrument is S.I. 2003/2275.

(e) Relevant amending instruments are S.I. 1993/688, S.I. 1994/578 and S.I. 1994/2137.

(f) The relevant amending instrument is S.I. 2000/1922.

(15) In Part VIII (claims), except regulation 61, for “four weeks” each time it appears substitute “one month”.

(16) In regulation 62(a) (time and manner in which claims are to be made)—

(a) in paragraph (4)—

- (i) in sub-paragraph (a) after “incapacity benefit” insert “, state pension credit”; and
- (ii) in sub-paragraph (f) omit the words from “an office” to the end and substitute “authorised office.”;

(b) in paragraph (5)—

- (i) omit sub-paragraphs (aa), (aaa), (b) and (d); and
- (ii) immediately before sub-paragraph (e) insert—
  - “(dd) in a case where the claimant is the former partner of a person who was, at the date of his death or their separation, entitled to council tax benefit and where the claimant makes a claim for council tax benefit within one month of the date of the death or the separation, that date;
  - (ddd) except where sub-paragraph (a), (c) or (dd) is satisfied, in a case where a properly completed claim is received in a designated office, an authorised office or an appropriate social security office within one month of the date on which a claim form was issued following the claimant first notifying, by whatever means, a designated office, an authorised office or an appropriate social security office of his intention of making a claim, the date of first notification; and”;
- (iii) in sub-paragraph (e) after “designated office” insert “, authorised office or appropriate social security office”;

(c) in paragraph (8)(a)—

- (i) after “requested to complete it” insert “or the evidence”; and
- (ii) after “of the request” omit “to complete”; and

(d) after paragraph (16) add—

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

(17) In Schedule 1A paragraph 6(2)(a)(b) (applicable amounts for those who have attained or whose partner has attained the qualifying age for state pension credit), after “single claimant” insert “, lone parent”.

(18) In Schedule 4(c) (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 13—

- (i) omit sub-paragraphs (1) and (2);
- (ii) for sub-paragraph (2A), substitute—

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

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

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(a) Relevant amending instruments are S.I. 2002/1703, S.I. 2003/48, S.I. 2003/325, S.I. 2003/1632, S.I. 2003/2632 and S.I. 2003/3368.

(b) Schedule 1A was inserted by S.I. 2003/325.

(c) Relevant amending instruments are S.I. 1993/688, S.I. 1996/462, S.I. 1998/563, S.I. 2002/2442, S.I. 2004/2308 and S.I. 2005/273.



- (d) a payment under an annuity purchased—
  - (i) pursuant to any agreement or court order to make payments to the claimant; or
  - (ii) from funds derived from a payment made,
    - in consequence of any personal injury to the claimant; or
- (e) a payment (not falling within sub-paragraphs (a) to (d) received by virtue of any agreement or court order to make payments to the claimant in consequence of any personal injury to the claimant.”;
- (iii) in sub-paragraph (3), for “sub-paragraphs (1) to (2A)”, substitute “sub-paragraph (2A)”;
- (iv) omit sub-paragraphs (4), (5) and (6); and
- (b) in paragraph 34, omit “paragraph 13(1)”.

(19) In Schedule 6 paragraph 13(f)(a) (matters to be included in the decision notice), after “income support”, insert “state pension credit”.

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

4. In regulation 14(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations (termination in case of a failure to furnish information) for sub-paragraph (a) substitute—

“(a) subject to sub-paragraph (b), before the end of the period under regulation 13(4) for the provision of information;”.

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

*James Plaskitt*  
Parliamentary Under Secretary of State,  
Department for Work and Pensions

13th October 2005

**EXPLANATORY NOTE**

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

These Regulations make various amendments to the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) (“the Housing Benefit Regulations”), the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814) (“the Council Tax Benefit Regulations”) and the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 (S.I. 2001/1002) (“the Decisions and Appeals Regulations”).

The Housing Benefit Regulations and the Council Tax Benefit Regulations were modified by the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (S.I. 2003/325) for persons who have attained the qualifying age for state pension credit. These Regulations apply to the Housing Benefit Regulations and the Council Tax Benefit Regulations as so modified and as not so modified, as set out in regulations 2(2) and 3(2).

Regulation 2 amends the Housing Benefit Regulations. Paragraph (3) amends regulation 2 by expanding the definition of “appropriate DWP office”. Paragraphs (4) and (5) provide that a person is considered to be disabled for the purpose of determining child care charge deductions if they cease to be registered as blind within the period that begins 28 weeks before the first Monday in September following their fifteenth birthday and ends on the day preceding the first Monday in September following the person’s sixteenth birthday. Paragraphs (6), (7), (8), (9) and (11) provide that the tax rates to be used to determine the amount of tax and contributions that should be

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(a) Relevant amending instruments are S.I. 1996/1510, S.I. 2001/1605 and S.I. 2003/325.

deducted to find the net amount of profit or earnings shall be the rate applicable to the assessment period. Paragraphs (10), (12) and (13) substitute the term 'revision and supersession' for the term 'review'. Paragraph (14) is a change consequential on the amendment made by paragraph (20). It inserts two definitions which apply to this regulation but were previously found in paragraph 13 of Schedule 4. Paragraph (15) extends certain time limits from four weeks to one month. Paragraph (16) revokes rules linking a claim for housing benefit to certain social security benefits. Paragraph (16) also introduces two new rules for determining the date of claim. The first relates to bereaved or separated persons and the second provides that the date of claim is the date a claimant notifies his intention of making a claim provided he makes that claim within one month of being issued with a claim form. Paragraph (17) amends the power of the relevant authority to make an interim payment. Paragraph (18) enables payment to be made to a landlord following a supersession. Paragraph (19) includes lone parents in the list of those who have attained the qualifying age for state pension credit and who may be treated as severely disabled in the stipulated circumstances. Paragraph (20) extends the number of payments that should be fully disregarded in the calculation of income other than earnings and (20)(b) makes an amendment consequential to that change.

Regulation 3 amends the Council Tax Benefit Regulations. The amendments made mirror those made by regulation 2. Paragraph (19) makes a technical amendment to paragraph 13 of Schedule 6, which reflects the analogous provision on the Housing Benefit Regulations.

Regulation 4 amends the Decisions and Appeals Regulations to shorten the time before a relevant authority can terminate an award of housing benefit or council tax benefit following suspension of payment.

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

**£3.00**

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