

2009 No. 1848

SOCIAL SECURITY

The Housing Benefit and Council Tax Benefit (Child Benefit Disregard and Child Care Charges) Regulations 2009

<i>Made</i>	- - - -	<i>9th July 2009</i>
<i>Laid before Parliament</i>		<i>15th July 2009</i>
<i>Coming into force</i>		
<i>except for the purposes of</i>		
<i>regulation 3</i>		<i>5th August 2009</i>
<i>for the purposes of regulation 3</i>		<i>2nd November 2009</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(d) and (e), 136(3) and (5)(b), 137(1) and 175(1) of the Social Security Contributions and Benefits Act 1992(a).

The Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it(b).

In accordance with section 176(1) of the Social Security Administration Act 1992, the Secretary of State has consulted with organisations appearing to the Secretary of State to be representative of the authorities concerned.

Citation and commencement

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (Child Benefit Disregard and Child Care Charges) Regulations 2009.

(2) These Regulations come into force—

- (a) except for the purposes of regulation 3 on 5th August 2009; and
- (b) for the purposes of regulation 3 on 2nd November 2009.

Treatment of child care charges

2.—(1) At the end of—

- (a) regulation 28(8) of the Housing Benefit Regulations 2006(a),

(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) and section 175(1) was amended by paragraph 29(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 137(1) is an interpretation provision and is cited for the meaning of the word “prescribed”.

(b) See sections 170, 172(1) and 173(1)(b) of the Social Security Administration Act 1992 (c. 5).

- (b) regulation 31(8) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**(b)**,
 - (c) regulation 18(8) of the Council Tax Benefit Regulations 2006**(c)**, and
 - (d) regulation 21(8) (treatment of child care charges) of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**(d)**,
- (each of which relates to the treatment of child care charges), insert—

“or

- (g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006**(e)**; or
- (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
- (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or
- (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of “childcare” for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
- (k) by a foster parent under the Fostering Services Regulations 2002**(f)**, the Fostering Services (Wales) Regulations 2003**(g)** or the Fostering of Children (Scotland) Regulations 1996**(h)** in relation to a child other than one whom the foster parent is fostering; or
- (l) by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002**(i)** or the Domiciliary Care Agencies (Wales) Regulations 2004**(j)**; or
- (m) by a person who is not a relative of the child wholly or mainly in the child’s home.”.

Disregard of child benefit from income other than earnings

3.—(1) At the end of Schedule 5**(k)** (sums to be disregarded in the calculation of income other than earnings) to the Housing Benefit Regulations 2006 add—

“**65.** Any payment of child benefit.”.

(2) At the end of Schedule 4**(l)** (sums to be disregarded in the calculation of income other than earnings) to the Council Tax Benefit Regulations 2006 add—

“**66.** Any payment of child benefit.”.

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

Helen Goodman
Parliamentary Under-Secretary of State,
Department for Work and Pensions

9th July 2009

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- (a) S.I. 2006/213. Regulation 28 is amended by S.I. 2005/2502 (as amended by S.I. 2006/217), 2005/3360, 2008/1042, 2008/1082 and 2008/3157.
 - (b) S.I. 2006/214. Regulation 31 is amended by S.I. 2008/1042, 2008/1082 and 2008/3157.
 - (c) S.I. 2006/215. Regulation 18 is amended by S.I. 2005/2502 (as amended by S.I. 2006/217), 2005/3360, 2008/1042, 2008/1082 and 2008/3157.
 - (d) S.I. 2006/216. Regulation 21 is amended by S.I. 2008/1042, 2008/1082 and 2008/3157.
 - (e) 2006 c.21.
 - (f) S.I. 2002/57.
 - (g) S.I. 2003/237.
 - (h) S.I. 1996/3263.
 - (i) S.I. 2002/3214.
 - (j) S.I. 2004/219.
 - (k) Paragraph 64 was inserted by S.I. 2008/3140. It was revoked by the same instrument on 1st April 2009 or (according to the circumstances) 6th April 2009.
 - (l) Paragraph 65 was inserted by S.I. 2008/3140. It was revoked by the same instrument on 6th April 2009.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Housing Benefit Regulations 2006, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, the Council Tax Benefit Regulations 2006 and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

Regulation 2 makes amendments to the provisions in those Regulations which deal with the establishments and persons whose charges for providing childcare can be deducted when calculating a claimant's earnings for the purpose of determining the amount of housing benefit or council tax benefit. As a result of the Childcare Act 2006 ("the 2006 Act"), Part 10A of the Children Act 1989 (c. 41) (requirement for childminders to register) now applies to Wales only, and childcare providers in England are subject instead to the registration provisions of the 2006 Act. Regulation 2 therefore amends the regulations referred to above to insert references to the registration provisions in the 2006 Act. Amendments are also made to allow deductions to be made where the child is cared for by a foster parent (other than the child's own foster parent) or a domiciliary care worker or where the child is looked after in their home by someone other than a relative. This aligns these provisions with regulation 14 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005 as amended).

Regulation 3 amends the Housing Benefit Regulations 2006 and the Council Tax Benefit Regulations 2006 so that payments of child benefit are disregarded for the purposes of calculating income other than earnings. (The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 already disregard child benefit payments.)

A full impact assessment has not been published for this instrument as it has no direct impact on the costs of business, charities or the voluntary sector.

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STATUTORY INSTRUMENTS

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