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STATUTORY INSTRUMENTS

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**2009 No. 3389**

**SOCIAL SECURITY**

**The Housing Benefit and Council Tax Benefit (War Pension Disregards) (Amendment) Regulations 2009**

<i>Made</i>	- - - -	<i>22nd December</i> <i>2009</i>
<i>Laid before Parliament</i>		<i>30th December 2009</i>
<i>Coming into force</i>	- -	<i>26th January 2010</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 134(8)(a) and (14), 139(6)(a) and (11), 189(1) and 191 of the Social Security Administration Act 1992<sup>(1)</sup>.

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it.

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

**Citation and commencement**

**1.** These Regulations may be cited as the Housing Benefit and Council Tax Benefit (War Pension Disregards) (Amendment) Regulations 2009 and shall come into force on 26th January 2010.

**Amendment of the Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007**

**2.—(1)** The Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007<sup>(2)</sup> are amended as follows.

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- (1) [1992 c. 5](#). Sections 134 and 139 were amended by the Welfare Reform Act [2007 \(c. 5\)](#), Schedule 5, paragraphs 3 and 4. Sections 134(14) and 139(11) are interpretation provisions and are cited for the meaning of “war widow’s pension”. Section 191, which was amended by the Welfare Reform Act 2007, Schedule 5, paragraph 10, is an interpretation provision and is cited for the meaning of “prescribe”.
- (2) [S.I. 2007/1619](#).

(2) For the Schedule(3) (war disablement pensions and war widow's pensions) substitute—

“THE SCHEDULE

Regulations 2 and 3

War disablement and war widow's pensions

PART 1

War disablement pensions

1. The war disablement pensions prescribed are—

- (a) any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(4);
- (b) any retired pay or pension payable, to a member of the armed forces of the Crown in respect of a disablement which is attributable to service, under—
  - (i) an Order in Council made under section 3 of the Naval and Marine Pay and Pensions Act 1865(5),
  - (ii) the Army Pensions Warrant 1977(6),
  - (iii) any order or regulations made under section 2 of the Air Force (Constitution) Act 1917(7),
  - (iv) any order or regulations made under section 4 of the Reserve Forces Act 1996(8),
  - (v) any instrument amending or replacing any of the instruments referred to in paragraphs (i) to (iv), or
  - (vi) any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown; and
- (c) a payment made under article 14(1)(b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(9).

PART 2

War widow's pensions

2. The war widow's pensions prescribed are—

- (a) any pension or allowance payable to a widow, widower or surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;
- (b) a pension payable, to a widow, widower or surviving civil partner of a member of the armed forces of the Crown in respect of death which is attributable to service, under—

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(3) The Schedule was substituted by S.I. 2008/3157 and amended by S.I. 2009/2655.  
(4) 2003 c. 1. Subsection (2) was inserted by section 19(4) of the Finance Act 2005 (c. 7).  
(5) 1865 c. 73 (28 & 29 Vict). Section 3 was amended by the Armed Forces Act 2006 (c. 52), Schedule 16, paragraph 2 and by the Armed Forces (Pension and Compensation) Act 2004 (c. 32), section 4.  
(6) This is available from The Stationery Office.  
(7) 1917 c. 51 (7 & 8 Geo 5). Section 2 was amended by the Armed Forces Act 2006, Schedule 16, paragraph 13.  
(8) 1996 c. 14. Section 4 was amended by the Armed Forces Act 2006, Schedule 14, paragraph 26.  
(9) S.I. 2005/439.

- (i) an Order in Council made under section 3 of the Naval and Marine Pay and Pensions Act 1865,
  - (ii) the Army Pensions Warrant 1977,
  - (iii) any order or regulations made under section 2 of the Air Force (Constitution) Act 1917,
  - (iv) any order or regulations made under section 4 of the Reserve Forces Act 1996,
  - (v) any instrument amending or replacing any of the instruments referred to in paragraphs (i) to (iv), or
  - (vi) any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown; and
- (c) a payment made under article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005.”.

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

22nd December 2009

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

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

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## EXPLANATORY NOTE

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

These Regulations amend the Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007 (S.I. 2007/1619) (“the War Pension Disregards Regulations”).

Sections 134(8)(a) and 139(6)(a) of the Social Security Administration Act 1992 allow local authorities administering schemes for housing benefit and council tax benefit to modify those schemes to disregard prescribed war disablement pensions and war widow’s pensions. The Schedule to the War Pension Disregards Regulations prescribes the pensions in respect of which the schemes can be modified.

Regulation 2 substitutes the Schedule to the War Pension Disregards Regulations. Part 1 has a new paragraph 1(b) which adds certain service attributable pensions to the list of prescribed war disablement pensions. This restores, in an updated form, a provision that was omitted when the Schedule was substituted by the Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157). Part 2 prescribes war widow’s pensions and includes pensions paid to widowers and surviving civil partners. It has a new paragraph 2(b) which makes similar provision in respect of war widow’s pensions as the new paragraph 1(b) in Part 1 does in respect of war disablement pensions.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.