

2003 No. 1338

SOCIAL SECURITY

The Housing Benefit and Council Tax Benefit (State Pension Credit) (Abolition of Benefit Periods) Amendment Regulations 2003

<i>Made - - - - -</i>	<i>21st May 2003</i>
<i>Laid before Parliament</i>	<i>27th May 2003</i>
<i>Coming into force</i>	
<i>for the purposes of Parts 1 and 3</i>	<i>16th June 2003</i>
<i>for all other purposes</i>	<i>6th October 2003</i>

ARRANGEMENT OF REGULATIONS

PART 1

General

1. Citation, commencement and interpretation

PART 2

Amendment of Housing Benefit Regulations and Council Tax Benefit Regulations

2. Housing Benefit Regulations and Council Tax Benefit Regulations
3. Continuing payments where state pension credit claimed

PART 3

Transitory Provisions

4. Transitory provision
5. Extension of benefit period
6. Transitory provision for rent officer referrals

PART 4

Consequential and Transitional Provisions

7. Application of this Part
8. Amendment of regulation 2 of the Housing Benefit Regulations and regulation 2 of the Council Tax Benefit Regulations
9. Amendment of regulation 7 of the Housing Benefit Regulations
10. Amendment of regulation 11 of the Housing Benefit Regulations
11. Amendment of regulation 12A of the Housing Benefit Regulations

12. Extended payments
13. Change of circumstances
14. Time claims are made or treated as made
15. Amendment of regulation 76 of the Housing Benefit Regulations and regulation 66 of the Council Tax Benefit Regulations
16. Amendment of regulation 104 of the Housing Benefit Regulations and regulation 90 of the Council Tax Benefit Regulations
17. Amendment of Schedule 1A to the Housing Benefit Regulations
18. Amendment of Schedule 6 to the Housing Benefit Regulations and Schedule 6 to the Council Tax Benefit Regulations
19. Minor and consequential amendments
20. Transitional provision
21. Transitional provision for rent officer referrals

PART 5

Application and Amendment of Other Provisions

22. Amendment of regulation 10 of the Housing Benefit (General) Amendment Regulations 1995
23. Amendment of regulation 4 of the Housing Benefit and Council Tax Benefit (General) Amendment Regulations 1997
24. Amendment of regulations 7 and 8 of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

SCHEDULE

Provisions Conferring Powers Exercised in making these Regulations

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by the provisions specified in the Schedule to these Regulations and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of the authorities concerned^(a), and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it^(b), hereby makes the following Regulations:

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (State Pension Credit) (Abolition of Benefit Periods) Amendment Regulations 2003 and shall come into force—

- (a) for the purposes of Parts 1 and 3, on 16th June 2003; and
- (b) for all other purposes on 6th October 2003 immediately after the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003^(c).

(2) In these Regulations—

“the Act” means the Child Support, Pensions and Social Security Act 2000^(d);

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

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

(c) S.I. 2003/325.

(d) 2000 c.19.

“appropriate relevant authority” has the same meaning as in paragraph 4 of Schedule 7 to the Act;

“benefit period” has the same meaning as in regulation 66 of the Housing Benefit Regulations and regulation 57 of the Council Tax Benefit Regulations as in force immediately before 6th October 2003;

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

“Housing Act functions” has the same meaning as in section 136(1) of the Social Security Administration Act 1992(b);

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

“the qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002(d))—

(a) in the case of a woman, pensionable age; or

(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man; and

“state pension credit” means state pension credit under the State Pension Credit Act 2002.

PART 2

Amendment of Housing Benefit Regulations and Council Tax Benefit Regulations

Housing Benefit Regulations and Council Tax Benefit Regulations

2.—(1) The Housing Benefit Regulations and Council Tax Benefit Regulations shall have effect, except where paragraph (2) applies, in relation to any person who has attained the qualifying age for state pension credit, subject to the modifications or amendments set out in this Part of these Regulations.

(2) This paragraph applies where the claimant or, if the claimant has a partner, his partner, is a person on income support or on an income-based jobseeker’s allowance within the meaning of the Housing Benefit Regulations(e) or the Council Tax Benefit Regulations(f), as the case may be.

Continuing payments where state pension credit claimed

3.—(1) In regulation 62B(g)(continuing payments where state pension credit claimed) of the Housing Benefit Regulations—

(a) in paragraph (3) for “In” there shall be substituted “Subject to paragraph (3A), in”;

(b) after paragraph (3), there shall be inserted—

“3A) Where housing benefit is paid for the period of 4 weeks in accordance with paragraph (3) above, and the last day of that period falls on a day other than the last day of a benefit week, then housing benefit shall continue to be paid until the end of the benefit week in which the last day of that period falls.”; and

(c) in paragraph (4) after the words “in paragraph (3)” there shall be inserted “and any further period specified in paragraph (3A)”.

(2) In regulation 53B(h) (continuing payments where state pension credit claimed) of the Council Tax Benefit Regulations—

(a) in paragraph (3) for “In” there shall be substituted “Subject to paragraph (3A), in”;

(a) S.I. 1992/1814.

(b) 1992 c.5.

(c) S.I. 1987/1971.

(d) 2002 c.16.

(e) See regulation 2(1) and (3A); paragraph (3A) was inserted by S.I. 1996/1510.

(f) See regulation 2(1) and (3A); paragraph (3A) was inserted by S.I. 1996/1510.

(g) Regulation 62B was inserted by S.I. 2003/325.

(h) Regulation 53B was inserted by S.I. 2003/325.

(b) after paragraph (3), there shall be inserted—

“(3A) Where council tax benefit is paid for the period of 4 weeks in accordance with paragraph (3) above, and the last day of that period falls on a day other than the last day of a benefit week, then council tax benefit shall continue to be paid until the end of the benefit week in which the last day of that period falls.”; and

(c) in paragraph (4) after the words “in paragraph (3)” there shall be inserted “and any further period specified in paragraph (3A)”.

PART 3

Transitory Provisions

Transitory provision

4.—(1) This regulation applies in the case of a claimant—

- (a) who has attained the qualifying age for state pension credit on or before 6th October 2003; and
- (b) whose benefit period is due to end in the period beginning 16th June 2003 and ending on 5th October 2003.

(2) Where this regulation applies the appropriate relevant authority, where it considers it appropriate to do so and upon its own initiative, may make a decision under paragraph 4 of Schedule 7 to the Act (decisions superseding earlier decisions).

(3) Where the effect of the decision made in accordance with paragraph (2) is that the benefit period is to be extended, a decision to which paragraph (2) applies shall take effect on the day immediately after the day on which the benefit period would have expired but for the decision made in accordance with this regulation.

(4) Where this regulation applies and the appropriate relevant authority considers it appropriate to make a decision under paragraph (2), the provisions in regulation 72(14)(a) and (b) of the Housing Benefit Regulations and regulation 62(15)(a) and (b) of the Council Tax Benefit Regulations shall not apply.

Extension of benefit period

5. Where regulation 4(1) applies—

- (a) regulation 66(3) of the Housing Benefit Regulations(a) (benefit period) shall have effect as if the reference to “60 benefit weeks” were a reference to “85 benefit weeks”; and
- (b) regulation 57(3) of the Council Tax Benefit Regulations (benefit period) shall have effect as if the reference to “60 weeks” were a reference to “85 weeks”.

Transitory provision for rent officer referrals

6. Where the appropriate relevant authority decides to make a decision under regulation 4(2) it may apply to a rent officer for a determination to be made in pursuance of Housing Act functions.

PART 4

Consequential and Transitional Provisions

Application of this Part

7.—(1) This Part shall have effect, except where paragraph (2) applies, in relation to a person who has attained the qualifying age for state pension credit.

(a) Relevant amending instruments are S.I. 1998/1971 and 2000/4.

(2) This paragraph applies where the claimant or, if the claimant has a partner, his partner, is a person on income support or on an income-based jobseeker's allowance within the meaning of the Housing Benefit Regulations or, as the case may be, the Council Tax Benefit Regulations.

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

8. In regulation 2(1) of the Housing Benefit Regulations (interpretation) and regulation 2(1) of the Council Tax Benefit Regulations (interpretation)-

- (a) the definition of "benefit period" shall be omitted;
- (b) at the appropriate place, insert—
 - ““the qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002(a))—
- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;”.

Amendment of regulation 7 of the Housing Benefit Regulations

9. In regulation 7(10) of the Housing Benefit Regulations (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) the words from "except" to the end of the paragraph shall be omitted.

Amendment of regulation 11 of the Housing Benefit Regulations

10. In regulation 11(6) of the Housing Benefit Regulations (maximum rent)—
- (a) in sub-paragraph (b) for the words "benefit period" there shall be substituted "award of housing benefit";
 - (b) for the words after sub-paragraph (b) there shall be substituted—
 - “then—
 - (i) the maximum rent shall not be reduced, where the sum is not less than the maximum rent, during a period ending on the date that the authority next applies to the rent officer for a determination in accordance with regulation 12A (requirement to refer to rent officers); and
 - (ii) the maximum rent shall be reduced to an amount equal to that sum, where that sum is less than the maximum rent during a period ending on the date that the authority next applies to the rent officer for a determination in accordance with regulation 12A (requirement to refer to rent officers).”.

Amendment of regulation 12A of the Housing Benefit Regulations

11.—(1) Regulation 12A(b) (requirement to refer to rent officers) shall be amended in accordance with the following paragraphs.

- (2) In paragraph (1)—
 - (a) the words "it has received" shall be omitted;
 - (b) at the beginning of sub-paragraphs (a), (aa), (b) and (c) the words "it has received" shall be inserted;
 - (c) after sub-paragraph (c), there shall be inserted the following sub-paragraphs—
 - “(d) 52 weeks have elapsed since it last made an application under sub-paragraph (a), (aa) or (b) above in relation to the claim or award in question; or
 - (e) 52 weeks have elapsed since—
 - (i) an application was made under sub-paragraph (d) above; or
 - (ii) an application was made under this sub-paragraph,
- whichever last occurred.”.

(a) 2002 c.16.

(b) Regulation 12A was inserted by S.I. 1990/546; relevant amending instruments are S.I. 1993/317, 1995/1644 and 2868, 1996/965, 1999/2401 and 2734, 2000/4, 2001/1324, 1605 and 2333 and 2003/48.

- (3) In paragraph (3)—
- (a) the words “appropriate local authority receiving” shall be omitted;
 - (b) at the beginning of sub-paragraphs (a), (aa) and (b) the words “relevant authority receiving” shall be inserted;
 - (c) after sub-paragraph (b), there shall be inserted—
 - “or
 - (c) day on which the period mentioned in paragraph (1)(d) or (e) elapsed.”.

Extended payments

12.—(1) In regulation 62A(a) of the Housing Benefit Regulations (extended payments) after paragraph (5), there shall be inserted—

“(5A) Where a person attains the qualifying age for state pension credit during the period of an extended payment made to him or his partner under this regulation, paragraph (5)(b) shall have effect as if—

- (a) after the word “beneficiary” there were inserted the words “or his partner”; and
- (b) for the words from “deemed to be” to the end of that sub-paragraph there were substituted the words “treated as having been made in respect of a period beginning immediately after the end of the benefit period.”.

(2) In regulation 53A(b) of the Council Tax Benefit Regulations (extended payments) after paragraph (5), there shall be inserted—

“(5A) Where a person attains the qualifying age for state pension credit during the period of an extended payment made to him or his partner under this regulation, paragraph (5)(b) shall have effect as if—

- (a) after the word “beneficiary” there were inserted the words “or his partner”; and
- (b) for the words from “deemed to be” to the end of that sub-paragraph there were substituted the words “treated as having been made in respect of a period beginning immediately after the end of the benefit period.”.

Change of circumstances

13.—(1) In regulation 68(c) of the Housing Benefit Regulations (date on which change of circumstances is to take effect)—

- (a) in paragraph (1) for the words “regulation 8(3) (eligible housing costs) or regulation 26” there shall be substituted “regulation 29”(d);
- (b) at the beginning of paragraphs (2), (3) and (4) there shall be inserted the words “Subject to paragraphs (13) and (14),”;
- (c) after paragraph (12) the following paragraphs shall be added—

“(13) Paragraph (14) applies where—

- (a) a change of circumstances would, but for that paragraph, take effect in accordance with paragraph (2), (3)(a)(i) or (b) or (4) on a day that is not the first day of a benefit week; and
- (b) the effect of that change of circumstances is to end entitlement to housing benefit.

(14) In a case to which this paragraph applies, the change of circumstances shall take effect from the first day of the benefit week following the day on which the change of circumstances actually occurred.”.

(2) In regulation 59(1)(e) of the Council Tax Benefit Regulations (date on which change of circumstances is to take effect) for the words “regulation 18” there shall be substituted “regulation 21”(f).

(a) Regulation 62A was inserted by S.I. 1996/194 and amended by S.I. 2001/537.

(b) Regulation 53A was inserted by S.I. 1996/194 and amended by S.I. 1999/2556, 2001/537 and 1605.

(c) Paragraphs (9) to (11) were added by S.I. 2003/325; relevant amending instruments are S.I. 1990/546, 1992/432, 1994/578, 1995/511, 1996/1510, 1999/2734, 2000/897, 2001/1605 and 2003/308.

(d) Regulation 29 was substituted, in relation to those who have attained the qualifying age for state pension credit, by S.I. 2003/325.

(e) Relevant amending instruments are S.I. 1994/578, 1995/511, 1996/1510, 2001/1605 and 2003/308.

(f) Regulation 21 was substituted, in relation to those who have attained the qualifying age for state pension credit, by S.I. 2003/325.

Time claims are made or treated as made

- 14.—**(1) Subject to regulation 20, in the Housing Benefit Regulations—
- (a) in regulation 65(1), the words “regulation 72(12) to (14) (renewal claims) and” shall be omitted; and
 - (b) in regulation 72, paragraphs (12) to (14A)(a) (time and manner in which claims are to be made) shall be omitted.
- (2) Subject to regulation 20, in the Council Tax Benefit Regulations—
- (a) in regulation 56(1) (date on which entitlement is to begin) the words “and to regulation 62(13) to (15) (renewal claims)” shall be omitted; and
 - (b) in regulation 62, paragraphs (13) to (15A)(b) (time and manner in which claims are to be made) shall be omitted.

Amendment of regulation 76 of the Housing Benefit Regulations and regulation 66 of the Council Tax Benefit Regulations

15. Paragraph (2)(d) of regulation 76 of the Housing Benefit Regulations and paragraph (2)(d) of regulation 66 of the Council Tax Benefit Regulations (who is to make a decision) shall be omitted.

Amendment of regulation 104 of the Housing Benefit Regulations and regulation 90 of the Council Tax Benefit Regulations

16. Paragraph (2) of regulation 104 of the Housing Benefit Regulations and paragraph (2) of regulation 90 of the Council Tax Benefit Regulations (sums to be deducted in calculating recoverable excess benefit) shall be omitted.

Amendment of Schedule 1A to the Housing Benefit Regulations

17.—(1) Schedule 1A(c) to the Housing Benefit Regulations (excluded tenancies) shall be amended in accordance with the following paragraphs.

- (2) For paragraph 2(2) there shall be substituted—
- “(2) For the purposes of any claim, notification, request or application under regulation 12A(1) (“the later application”), a tenancy shall not be an excluded tenancy by virtue of sub-paragraph (1) by reference to a rent officer’s determination made in consequence of an earlier claim, notification, request or application (“the earlier application”) where—
- (a) the earlier and later applications were made in respect of the same claimant or different claimants; and
 - (b) the earlier application was made more than 52 weeks before the later application was made.”.
- (3) Paragraphs 2(2A) and (3)(d) and 4 shall be omitted.

Amendment of Schedule 6 to the Housing Benefit Regulations and Schedule 6 to the Council Tax Benefit Regulations

18. Paragraph 9(h)(d) of Schedule 6 to the Housing Benefit Regulations and paragraph 9(e)(e) of Schedule 6 to the Council Tax Benefit Regulations (awards where income support or state pension credit is payable) shall be omitted.

Minor and consequential amendments

19.—(1) In the provisions specified in paragraph (2), for the words “benefit period” wherever they occur, there shall be substituted the words “award of housing benefit”, preceded, where appropriate, by “an” instead of “a”.

-
- (a) Paragraph 14A was inserted by S.I. 1999/2556; relevant amending instruments are S.I. 1991/235, 1996/1510, 1999/2556, 2001/537 and 1605.
 - (b) Paragraph 15A was inserted by S.I. 1999/2556; relevant amending instruments are S.I. 1996/462 and 1510, 1999/2556, 2001/537 and 1605.
 - (c) Schedule 1A was inserted by S.I. 1990/546; relevant amending instruments are S.I. 1991/235, 1992/432, 1993/317 and 1249, 1995/560 and 2868, 1996/965, 1997/852, 1998/563, 2001/487, 1324 and 1605 and 2002/2322.
 - (d) Relevant amending instruments are S.I. 1989/416, 1990/546, 1996/1510, 2001/1605 and 2003/325.
 - (e) Relevant amending instruments are S.I. 1996/1510, 2001/1605 and 2003/325.

(2) The provisions referred to in paragraph (1) are the following regulations in the Housing Benefit Regulations—

- (a) regulation 11(9) and (10)(a) (maximum rent);
- (b) regulation 70(2) (rent free periods); and
- (c) regulation 75(1)(b) (duty to notify change of circumstances).

(3) In regulation 70(2)(a) of the Housing Benefit Regulations (rent free periods) for the words “that period” in both places where they occur, there shall be substituted the words “that award”.

(4) In regulation 65(1)(c) of the Council Tax Benefit Regulations (duty to notify a change of circumstances) for the words “benefit period” there shall be substituted the words “award of council tax benefit”.

Transitional provision

20.—(1) Paragraphs (2) and (3) apply in the case of a claimant whose, or whose partner’s, benefit period ends before 6th October 2003.

(2) Where paragraph (1) applies, regulation 72(13) and (14) of the Housing Benefit Regulations and regulation 62(14) and (15) of the Council Tax Benefit Regulations shall continue to have effect until 3rd November 2003.

(3) Where paragraph (1) applies and either—

- (a) a claimant makes a claim for a further grant of—
 - (i) housing benefit in accordance with regulation 72(13) of the Housing Benefit Regulations, or
 - (ii) council tax benefit in accordance with regulation 62(14) of the Council Tax Benefit Regulations,

after 6th October 2003 but no later than 4 weeks after the end of the benefit period; or

- (b) a relevant authority invites that claimant to make a claim for a further grant of—
 - (i) housing benefit in accordance with regulation 72(14) of the Housing Benefit Regulations, or
 - (ii) council tax benefit in accordance with regulation 62(15) of the Council Tax Benefit Regulations,

and following that invitation, a claim is received from that claimant after 6th October 2003 but no later than 4 weeks after the end of the benefit period,

that claim shall be treated as having been made in respect of the period beginning immediately after the end of the benefit period.

(4) Paragraphs (5) and (6) shall apply in the case of a claimant—

- (a) whose, or whose partner’s, benefit period ends before the claimant attains the qualifying age for state pension credit; and
- (b) who attains the qualifying age for state pension credit no later than 4 weeks after the end of the benefit period.

(5) Where paragraph (4) applies, regulation 72(13) and (14) of the Housing Benefit Regulations and regulation 62(14) and (15) of the Council Tax Benefit Regulations shall continue to have effect until 4 weeks after the day on which the benefit period ends.

(6) Where paragraph (4) applies and either—

- (a) a claimant makes a claim for a further grant of—
 - (i) housing benefit in accordance with regulation 72(13) of the Housing Benefit Regulations, or
 - (ii) council tax benefit in accordance with regulation 62(14) of the Council Tax Benefit Regulations,

after he has attained the qualifying age for state pension credit but no later than 4 weeks after the end of the benefit period; or

- (b) a relevant authority invites that claimant to make a claim for a further grant of—

(a) Regulation 11(9) was amended by S.I. 2001/1605.

(b) Relevant amending instruments are S.I. 1999/3108 and 2001/1605.

(c) Relevant amending instruments are S.I. 1999/3108 and 2001/1605.

- (i) housing benefit in accordance with regulation 72(14) of the Housing Benefit Regulations, or
- (ii) council tax benefit in accordance with regulation 62(15) of the Council Tax Benefit Regulations,

and, following that invitation, a claim is received from that claimant after he has attained the qualifying age for state pension credit but no later than 4 weeks after the end of the benefit period,

that claim shall be treated as having been made in respect of the period beginning immediately after the end of the benefit period.

Transitional provision for rent officer referrals

21.—(1) Paragraph (2) applies where a claimant attains or has attained the qualifying age for state pension credit on or before 6th October 2003.

(2) If, on 6th October 2003, more than 52 weeks have elapsed since the relevant authority last made an application in relation to that claimant's, or his partner's, claim for, or award of, housing benefit for a determination in accordance with regulation 12A(1) of the Housing Benefit Regulations (requirement to refer to rent officers), the relevant authority shall apply to a rent officer for a determination to be made in pursuance of the Housing Act functions as soon as is practicable after 6th October 2003.

(3) Paragraph (4) applies where a claimant attains the qualifying age for state pension credit on a date ("the qualifying date") after 6th October 2003.

(4) If, on the qualifying date, more than 52 weeks have elapsed since the relevant authority last made an application in relation to that claimant's, or his partner's, award of housing benefit for a determination in accordance with regulation 12A(1) of the Housing Benefit Regulations (requirement to refer to rent officers), the relevant authority shall apply to a rent officer for a determination to be made in pursuance of the Housing Act functions as soon as is practicable after the qualifying date.

(5) Any application made under paragraph (2) or (4) above shall be subject to regulation 12A(1A) and (7A) of the Housing Benefit Regulations.

(6) An appropriate relevant authority may make a decision under paragraph 4 of Schedule 7 to the Act in a case to which paragraphs (2) or (4) apply.

(7) Where an appropriate relevant authority makes a decision under paragraph (6) which adopts the determination made in consequence of the application made under paragraph (2) or (4) the decision shall take effect—

- (a) in a case to which paragraph (2) applies, on 6th October 2003; and
- (b) subject to paragraph (8), in a case to which paragraph (4) applies, on the qualifying date.

(8) Where an appropriate relevant authority makes a decision under paragraph (6) which adopts the determination made in consequence of the application made under paragraph (4)—

- (a) in a case where entitlement to housing benefit ceases; and
- (b) where the qualifying date is not the first day of the benefit week,

the decision shall take effect on the first day of the benefit week following the benefit week in which the qualifying date falls.

PART 5

Application and Amendment of Other Provisions

Amendment of regulation 10 of the Housing Benefit (General) Amendment Regulations 1995

22. In regulation 10 of the Housing Benefit (General) Amendment Regulations 1995(a) (saving provision)—

- (a) after paragraph (5B), there shall be inserted the following paragraphs—

(a) S.I. 1995/1644. Relevant amending instruments are S.I. 1996/462 and 2432, 1998/563 and 2231 and 1999/2734.

“(5C) Subject to paragraph (5D), paragraphs (1) to (5A) above shall have effect where a claimant has attained the qualifying age for state pension credit as if any references to a benefit period were references to an award of housing benefit.

(5D) Paragraph (5C) shall not apply if the claimant, or if the claimant has a partner, his partner, is a person on income support or on an income-based jobseeker’s allowance within the meaning of the Principal Regulations.”;

(b) in paragraph (6), at the appropriate places, insert the following definitions—

““the qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002(a))—

(a) in the case of a woman, pensionable age; or

(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

“state pension credit” means state pension credit under the State Pension Credit Act 2002”.

Amendment of regulation 4 of the Housing Benefit and Council Tax Benefit (General) Amendment Regulations 1997

23. In regulation 4 of the Housing Benefit and Council Tax Benefit (General) Amendment Regulations 1997(b) (savings) after paragraph (2AC) there shall be inserted the following paragraphs—

“(2AD) Paragraph (2A) shall have effect where a claimant has attained the qualifying age for state pension credit as if the words “makes a further claim for housing benefit under regulation 72(12) to (14) of the principal Regulations, where he” were omitted;

(2AE) Paragraph (2AD) shall not apply if the claimant, or if the claimant has a partner, his partner, is a person on income support or on an income-based jobseeker’s allowance within the meaning of the Principal Regulations(c).

(2AF) In this Regulation—

“the qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002(d))—

(a) in the case of a woman, pensionable age; or

(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

“state pension credit” means state pension credit under the State Pension Credit Act 2002.”.

Amendment of regulations 7 and 8 of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

24.—(1) In regulation 7 of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(e) (decisions superseding earlier decisions) there shall be inserted the following paragraph—

“(2A) An appropriate relevant authority may, upon its own initiative, make a decision under paragraph 4 of Schedule 7 to the Act in any case to which regulation 12A(1)(d) or (e) of the Housing Benefit Regulations (requirement to refer to rent officers) applies.”.

(2) In regulation 8 of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 (date from which a decision superseding an earlier decision takes effect) after paragraph (11) there shall be inserted the following paragraphs—

“(12) Except in a case where entitlement to housing benefit ceases, where a rent officer has made a determination in exercise of the Housing Act functions pursuant to an application by a relevant authority under regulation 12A(1)(d) or (e) of the Housing Benefit Regulations, any decision to which regulation 7(2A) applies which adopts that determination shall take effect from the first day following the last day of the period mentioned in regulation 12A(1)(d) or (e) of those Regulations.

(a) 2002 c.16.

(b) S.I. 1997/852. Relevant amending instruments are S.I. 1997/1975 and 1998/2231.

(c) See regulation 2(1) and (3A); paragraph (3A) was inserted by S.I. 1996/1510.

(d) 2002 c.16.

(e) 2001/1002. Relevant amending instruments are S.I. 2002/490 and S.I. 2003/1050.

(13) For the purposes of paragraph (12) “Housing Act functions” has the same meaning as in section 136(1) of the Administration Act.”.

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

21st May 2003

Malcolm Wicks
Parliamentary Under-Secretary of State,
Department for Work and Pensions

SCHEDULE

Provisions Conferring Powers Exercised in making these Regulations

<i>Column (1)</i> Short title	<i>Column (2)</i> Provision	<i>Column (3)</i> Relevant amendments
Social Security Contributions and Benefits Act(a)	Section 123(1)(d) and (e)	Local Government Finance Act 1992(b), Schedule 9, paragraph 1(1)
	Section 130(2) and (4)	Local Government Finance Act 1992, Schedule 9, paragraph 3
	Section 131(10) Section 136A	State Pension Credit Act 2002(c), Schedule 2, paragraph 3
	Section 137(1) and (2)(i) Section 175(3) and (4)	Social Security (Incapacity for Work) Act 1994(d), sections 4(11), 7(4) and 12(3) Section 175 (3) and (4) is applied to the provisions of the State Pension Credit Act 2002 by section 19(1) of that Act
Social Security Administration Act 1992(e)	Section 5(1)(a), (d), (e), (i), (j) and (k)	Social Security Act 1998(f), Schedule 7, paragraph 79(1)
	Section 6(1)(a), (d), (e), (i), (k) and (l)	Local Government Finance Act 1992, Schedule 9, paragraph 12(1)(a) and (b) and Schedule 14
	Section 75(2) and (4) Section 76(1) and (2)	Local Government Finance Act 1992, Schedule 9, paragraphs 15(2) and Schedule 14
	Section 128A	Jobseekers Act 1995(g), section 28(2)
	Section 189(4) and (5)	Social Security Act 1998, Schedule 7, paragraph 109
Housing Act 1996(h) Social Security Act 1998	Section 122 (3),(5) and (6)	
	Section 34(1) and (2)	
	Section 79(4), (6) and (7)(i)	
	Section 84	
Child Support, Pensions and Social Security Act 2000(j)	Schedule 7, paragraph 4(4) and (6)	
	Schedule 7, paragraph 23(1)	

(a) 1992 c.4.

(b) 1992 c.14.

(c) 2002 c.16.

(d) 1994 c.18.

(e) 1992 c.5.

(f) 1998 c.14.

(g) 1995 c.18.

(h) 1996 c.52.

(i) See: paragraph 20(3) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000.

(j) 2000 c.19.

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”), the Council Tax Benefit (General) Regulations 1992 (S.I.1992/814) (“the Council Tax Benefit Regulations”), the Housing Benefit (General) Amendment Regulations 1995 (S.I. 1995/1644), the Housing Benefit and Council Tax Benefit (General) Amendment Regulations 1997 (S.I. 1997/852) and the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 (S.I. 2001/1002).

These Regulations abolish benefit periods in housing benefit and council tax benefit for those who have attained the qualifying age for state pension credit. In the case of a woman, that age is pensionable age and in the case of a man it is the age which is pensionable for a woman born on the same day as a man (section 1(6) of the State Pension Credit Act 2002).

Part 2 (regulations 2 and 3) contains amendments to the Housing Benefit Regulations and Council Tax Benefit Regulations. Regulation 3 amends regulation 62B of the Housing Benefit Regulations and regulation 53B of the Council Tax Benefit Regulations (continuing payments where state pension credit claimed) to make provision for the date a continuing payment will end in specified circumstances.

Part 3 (regulations 4 to 6) contains provisions for a transitory scheme. Regulation 4 provides that claimants who have attained the qualifying age for state pension credit on or before 6th October 2003 and whose benefit period is due to end between 16th June and 5th October 2003 may have their housing benefit decision or council tax benefit decision superseded, and where the appropriate relevant authority considers that it is appropriate to supersede, the effective date of the supersession is the day immediately following the day on which the benefit period would have expired had it not been superseded. Regulation 5 extends the maximum length of a benefit period where regulation 4(1) applies. Regulation 6 makes provision for an appropriate relevant authority to apply to a rent officer for a determination.

Part 4 (regulations 7 to 21) contains consequential and transitional provisions. Regulations 8 to 10 and regulations 14 to 18 amend provisions in the Housing Benefit Regulations and the Council Tax Benefit Regulations, omitting references to benefit periods and making consequential changes. Regulation 11 amends regulation 12A of the Housing Benefit Regulations to prescribe a further circumstance in which a relevant authority must apply to a rent officer for a determination. Regulation 12 amends the provisions in the Housing Benefit Regulations and Council Tax Benefit Regulations relating to extended payments to make provision for a claimant who attains the qualifying age for state pension credit during the period of an extended payment. Regulation 13 amends regulation 68 of the Housing Benefit Regulations to specify the date a change of circumstances will take effect where entitlement to housing benefit ends and makes a minor amendment to regulation 59 of the Council Tax Benefit Regulations to reflect the modifications made by the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (S.I. 2003/325). Regulation 19 contains minor amendments. Regulation 20 contains transitional provisions for renewal claims for housing benefit and council tax benefit. Regulation 21 contains transitional provisions for rent officer referrals.

Part 5 (regulations 22 to 24) amends other Regulations. Regulation 22 amends regulation 10 of the Housing Benefit (General) Amendment Regulations 1995, substituting references to benefit periods to awards of housing benefit for those who have attained the qualifying age for state pension credit. Regulation 23 amends regulation 4 of the Housing Benefit and Council Tax Benefit (General) Amendment Regulations 1997 to retain transitional protection for those who have attained the qualifying age for state pension credit. Regulation 24 amends regulation 8 of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations to provide a new effective date of the day following the last day of the 52 week period referred to in regulation 12A(1)(d) or (e) for cases where a decision is superseded for a change of circumstances and that change is brought about because a Rent Officer’s determination applied for by a relevant authority is adopted in the decision.

These Regulations do not impose a charge on business.

2003 No. 1338

SOCIAL SECURITY

**The Housing Benefit and Council Tax Benefit (State
Pension Credit) (Abolition of Benefit Periods)
Amendment Regulations 2003**

£3.00

© Crown copyright 2003

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.
E0730 5/2003 130730 19585

ISBN 0-11-046158-4



9 780110 461588