
STATUTORY INSTRUMENTS

2004 No. 14

**The Housing Benefit and Council Tax Benefit (Abolition
of Benefit Periods) Amendment Regulations 2004**

PART 2

Amendment of Housing Benefit Regulations and Council Tax Benefit Regulations

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

2. In regulation 2(1) of the Housing Benefit Regulations (interpretation) and regulation 2(1) of the Council Tax Benefit Regulations (interpretation) the definition of “benefit period” shall be omitted.

Amendment of regulation 7 of the Housing Benefit Regulations

3. In regulation 7(10)(1) 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

4. In regulation 11(6)(2) 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”; and

(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 effective date of a decision adopting a determination of a rent officer where that determination was made in exercise of the Housing Act functions pursuant to an application by the authority under regulation 12A(1)(c), (d) or (e); 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 effective date of a decision adopting a determination of a rent officer where that determination was made in exercise of the Housing Act functions pursuant to an application by the authority under regulation 12A(1)(c), (d) or (e).”.

(1) Relevant amending instrument is S.I.2003/1338.

(2) Relevant amending instrument is S.I. 2003/1338.

Amendment of regulation 12A of the Housing Benefit Regulations

5. In regulation 12A(3) of the Housing Benefit Regulations (requirement to refer to rent officers)

(a) in paragraph (1)—

(i) the words “it has received” shall be omitted;

(ii) at the beginning of sub-paragraphs (a), (aa), (b) and (c) the words “it has received” shall be inserted; and

(iii) 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.”; and

(b) in paragraph (3)—

(i) the words “the appropriate local authority receiving” shall be omitted;

(ii) at the beginning of sub-paragraphs (a), (aa) and (b) the words “the relevant authority receiving” shall be inserted; and

(iii) after sub-paragraph (b), there shall be inserted—

“or

(c) the day on which the period mentioned in paragraph (1)(d) or (e) elapsed.”.

Amendment of regulation 21 of the Housing Benefit Regulations and regulation 13 of the Council Tax Benefit Regulations

6. In regulation 21(1)(a)(4) of the Housing Benefit Regulations and regulation 13(1)(a)(5) of the Council Tax Benefit Regulations (calculation of income on a weekly basis) the words “over the benefit period” shall be omitted.

Amendment of regulation 21A of the Housing Benefit Regulations and regulation 13A of the Council Tax Benefit Regulations

7. In regulation 21A(3)(6) of the Housing Benefit Regulations and regulation 13A(3)(7) of the Council Tax Benefit Regulations (treatment of childcare charges) the words “over the benefit period” shall be omitted.

(3) 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, 1338 and 2399.

(4) Relevant amending instruments are S.I. 1990/546, 1991/1599 and 1994/1924.

(5) Relevant amending instrument is S.I. 1994/1924.

(6) Regulation 21A was inserted by S.I. 1994/1924.

(7) Regulation 13A was inserted by S.I. 2001/1924.

Amendment of regulation 22 of the Housing Benefit Regulations and regulation 14 of the Council Tax Benefit Regulations

8.—(1) In regulation 22(8) of the Housing Benefit Regulations (average weekly earnings of employed earners)—

- (a) in paragraph (1)(b) the words “over the benefit period” shall be omitted; and
- (b) for paragraph (3) there shall be substituted—

“Where the amount of a claimant’s earnings changes during an award the relevant authority shall estimate his average weekly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period shall not in any case exceed 52 weeks.”.

(2) In regulation 14(9) of the Council Tax Benefit Regulations (average weekly earnings of employed earners)—

- (a) in paragraph (1)(b) the words “over the benefit period” shall be omitted; and
- (b) for paragraph (3) there shall be substituted—

“Where the amount of a claimant’s earnings changes during an award the relevant authority shall estimate his average weekly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period shall not in any case exceed a year.”.

Amendment of regulation 23 of the Housing Benefit Regulations and regulation 15 of the Council Tax Benefit Regulations

9. In regulation 23(1)(10) of the Housing Benefit Regulations and regulation 15(1)(11) of the Council Tax Benefit Regulations (average weekly earnings of self-employed earners) the words “over the benefit period” shall be omitted.

Amendment of regulation 24 of the Housing Benefit Regulations and regulation 16 of the Council Tax Benefit Regulations

10. In regulation 24(1)(12) of the Housing Benefit Regulations and regulation 16(1) of the Council Tax Benefit Regulations (average weekly income other than earnings) the words “over the benefit period” shall be omitted.

Extended payments

11.—(1) Subject to regulation 28 (saving provision for extended payments), for regulation 62A(13) of the Housing Benefit Regulations (extended payments) there shall be substituted—

“**62A.—(1)** Subject to paragraphs (7) and (8) paragraph (2) shall apply where—

- (a) a person ceases to be entitled to housing benefit—

(8) Relevant amending instrument is S.I. [2001/1603](#).

(9) Relevant amending instrument is S.I. [2001/1603](#).

(10) Relevant amending instrument is [S.I.1993/2118](#).

(11) Relevant amending instrument is [S.I.1993/2118](#).

(12) Relevant amending instrument is S.I. [1989/416](#).

(13) Regulation 62A was inserted by S.I. [1996/194](#); relevant amending instruments are S.I. [1999/2556](#), [2001/537](#) and [1605](#) and [2003/1338](#).

- (i) in accordance with regulation 65A(1) (date on which housing benefit is to end); and
 - (ii) the conditions referred to in paragraphs 2 and 3 of Schedule 5A are 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 income support or an income-based jobseeker's allowance by reason of taking up employment as an employed or self-employed earner; and
 - (ii) the conditions referred to in paragraphs 2 and 3 of Schedule 5A are 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 Part II of Schedule 5A and any award so determined shall be referred to in these Regulations as an "extended payment".
- (3) For the purposes of any payment pursuant to this regulation—
- (a) except in a case to which paragraph 8(b) of Schedule 5A applies, the maximum housing benefit of any person mentioned in paragraph (1) shall be that which was applicable to him in the last benefit week of the award of housing benefit which has ceased as mentioned in paragraph (1);
 - (b) the maximum housing benefit of any person to whom paragraph 8(b) of Schedule 5A applies shall be determined in accordance with paragraph 9 of that Schedule; and
 - (c) any person who meets the requirements of paragraph (1) 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)(14), Part IX (calculation of weekly amounts and changes of circumstances) shall not apply to any payment under it.
- (5) In paragraph (1)(a) and (b), references to a "person" include references to a person's partner.
- (6) Subject to paragraph (8), in a case where a payment has been made under this regulation—
- (a) the beneficiary shall be treated for the purposes of these Regulations and of the Housing Benefit (General) Amendment Regulations 1995(15) 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

(14) Relevant amending instruments are [S.I.1994/578](#) and [1996/194](#).

(15) [S.I.1995/1644](#).

treated as having been made in respect of a period beginning immediately after the end of his previous award of housing benefit.

(7) This regulation shall not apply to a claimant where, on the day before his entitlement to income support ceased, regulation 6(5) of the Income Support (General) Regulations 1987⁽¹⁶⁾ (remunerative work: housing costs) applied to him.

(8) Until 25th October 2004 this regulation shall have effect subject to the following provisions of this paragraph—

(a) the following shall be inserted after sub-paragraph (b) of paragraph (1)—

“; or

(c) a person ceases to be entitled to housing benefit—

(i) in accordance with regulation 65A(2) (date on which housing benefit is to end) and the condition referred to in paragraph 3A of Schedule 5A is satisfied in his case; or

(ii) 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 or during the period specified in regulation 6(3) of the Income Support (General) Regulations 1987 and—

(aa) he is a person to whom regulation 6(2) of those Regulations applies; and

(bb) he has ceased to be entitled to income support or an income-based jobseeker’s allowance by reason of taking up employment as an employed or self-employed earner; and

(cc) the condition referred to in paragraph 3A of Schedule 5A is satisfied in his case.”;

(b) the words “paragraphs (8) and (9),” shall be substituted for the words “paragraph (8)” in paragraph (6); and

(c) the following paragraph shall be inserted after this paragraph—

“(9) Where the beneficiary is a person to whom regulation 6(2) of the Income Support (General) Regulations 1987 applies (persons not treated as engaged in remunerative work) and a payment is made under this regulation, he shall be treated for the purposes of these Regulations and of the Housing Benefit (General) Amendment Regulations 1995 as though he were entitled to and in receipt of housing benefit—

(a) during the period beginning on the day immediately following the last day of his entitlement to housing benefit and ending on the last day of the benefit week which includes the day—

(i) which is 4 weeks after the day on which that person was first engaged in the work referred to in regulation 6(2)(a) of those Regulations; or

(ii) on which that person’s 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

⁽¹⁶⁾ S.I.1987/1967. Relevant amending instruments are S.I. 1999/2556, 2001/488 and 2003/1589.

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) Subject to regulation 28 (saving provision for extended payments), for regulation 53A(17) of the Council Tax Benefit Regulations (extended payments) there shall be substituted—

“53A.—(1) Subject to paragraphs (7) and (8), paragraph (2) shall apply where—

- (a) a person ceases to be entitled to council tax benefit—
 - (i) in accordance with regulation 56A(1) (date on which council tax benefit is to end); and
 - (ii) the conditions in paragraphs 2 and 3 of Schedule 5A are 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 income support or an income-based jobseeker’s allowance by reason of taking up employment as an employed or self-employed earner; and
 - (ii) the conditions in paragraphs 2 and 3 of Schedule 5A are 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 Part II of Schedule 5A and any award so determined shall be referred to in these Regulations as an “extended payment”.

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

- (a) except in a case to which paragraph 5 of Schedule 5A applies, the maximum council tax benefit of any person mentioned in paragraph (1) shall be determined in accordance with paragraph 4 of Schedule 5A;
- (b) the maximum council tax benefit of any person to whom paragraph 5 of Schedule 5A applies shall be determined in accordance with paragraph 6(a) of Schedule 5A; and
- (c) any person who meets the requirements of paragraph (1) shall be treated as possessing no income and no 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)(18) (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)(a) and (b), references to a “person” include references to a person’s partner.

(6) Subject to paragraph (8), in a case where a payment has been made under this regulation—

- (a) the beneficiary shall be treated for the purposes of these Regulations as though he were entitled to and in receipt of council tax benefit—

(17) Regulations 53A was inserted by S.I. 1996/194; relevant amending instruments are S.I. 1999/2556, 2001/537 and 1605 and 2003/1338.

(18) Paragraph (6) of regulation 51 was inserted by S.I.1996/194.

- (i) during the 4 weeks immediately following the last day of his entitlement to council tax 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.
- (7) This regulation shall not apply to a claimant where, on the day before his entitlement to income support ceased, regulation 6(5) of the Income Support (General) Regulations 1987 (remunerative work: housing costs) applied to him.
- (8) Until 25th October 2004 this regulation shall have effect subject to the following provisions of this paragraph—
- (a) the following shall be inserted after sub-paragraph (1)(b)—
 - “; or
 - (c) a person ceases to be entitled to council tax benefit—
 - (i) in accordance with regulation 56A(2) (date on which council tax benefit is to end) and—
 - (aa) he is a person to whom regulation 6(2) of the Income Support (General) Regulations 1987 applies (persons not treated as engaged in remunerative work); and
 - (bb) the condition referred to in paragraph 3A of Schedule 5A is satisfied in his case; or
 - (ii) 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 or during the period specified in regulation 6(3) of the Income Support (General) Regulations 1987 (persons not treated as engaged in remunerative work) and—
 - (aa) he is a person to whom regulation 6(2) of those Regulations applies; and
 - (bb) he has ceased to be entitled to income support or an income-based jobseeker’s allowance by reason of taking up employment as an employed or self-employed earner; and
 - (cc) the condition in paragraph 3A of Schedule 5A is satisfied in his case.”;
- (b) the words “paragraphs (8) and (9),” shall be substituted for the words “paragraph (8)” in paragraph (6); and
- (c) the following paragraph shall be inserted after this paragraph—
- “(9) Where the beneficiary is a person to whom regulation 6(2) of the Income Support (General) Regulations 1987 applies (persons not treated as engaged in remunerative work) and a payment is made under this regulation, he shall be treated for the purposes of these Regulations as though he were entitled to and in receipt of council tax benefit—

- (a) during the period beginning on the day immediately following the last day of his entitlement to council tax benefit and ending on the last day of the benefit week which includes the day—
 - (i) which is 4 weeks after the day on which that person was first engaged in the work referred to in regulation 6(2)(a) of those Regulations; or
 - (ii) on which that person’s 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 an award of benefit is to end

12.—(1) After regulation 65 of the Housing Benefit Regulations (date on which entitlement is to commence) there shall be inserted—

“Date on which housing benefit is to end

65A.—(1) Subject to paragraphs (2) and (3), a claimant’s entitlement to housing benefit shall cease at the end of the benefit week in which entitlement to income support or income-based jobseeker’s allowance ceases where—

- (a) the claimant or his partner was entitled to and in receipt of income support or an income-based jobseeker’s allowance or that claimant and his partner were entitled to and in receipt of a joint-claim jobseeker’s allowance and that entitlement has ceased;
- (b) that entitlement to income support or income-based jobseeker’s allowance 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 income support or jobseeker’s allowance for a continuous period of at least 26 weeks before the day on which his entitlement to income support or income-based jobseeker’s allowance 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 income support and a jobseeker’s allowance for at least 26 weeks;
 - (ii) the claimant shall be treated as having been entitled to and in receipt of income support or a jobseeker’s allowance during any period of less than 5 weeks in respect of which he was not entitled to either of those because, as a consequence of his participation in an employment zone programme, he was engaged in remunerative work;
 - (iii) references to the claimant include references to his partner;
 - (iv) a reference to the claimant being entitled to and in receipt of a jobseeker’s allowance shall include a reference to the claimant and his partner being entitled to and in receipt of a joint-claim jobseeker’s allowance; 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) In the case of a claimant to whom regulation 6(2) of the Income Support (General) Regulations 1987 applies (persons not treated as engaged in remunerative work), entitlement to housing benefit shall cease where—

- (a) the claimant was entitled to and in receipt of income support or an income-based jobseeker's allowance and that entitlement ceases;
- (b) the entitlement to income support or income-based jobseeker's allowance ceases by reason of the claimant commencing employment as an employed or self-employed earner; and
- (c) that work is expected to last 5 weeks or more,

and that entitlement shall cease at the end of the benefit week in which entitlement to income support or income-based jobseeker's allowance ceases.

(3) Paragraph (2) shall be omitted with effect from 25th October 2004.”.

(2) After regulation 56 of the Council Tax Benefit Regulations there shall be inserted—

“Date on which council tax benefit is to end

56A.—(1) Subject to paragraphs (2) and (3), a claimant's entitlement to council tax benefit shall cease at the end of the benefit week in which entitlement to income support or income-based jobseeker's allowance ceases where—

- (a) the claimant or his partner was entitled to and in receipt of income support or an income-based jobseeker's allowance or that claimant and his partner were entitled to and in receipt of a joint-claim jobseeker's allowance and that entitlement has ceased;
- (b) that entitlement to income support or income-based jobseeker's allowance 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 income support or jobseeker's allowance for a continuous period of at least 26 weeks before the day on which his entitlement to income support or income-based jobseeker's allowance 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 income support and a jobseeker's allowance for at least 26 weeks;
 - (ii) the claimant shall be treated as having been entitled to and in receipt of income support or a jobseeker's allowance during any period of less than 5 weeks in respect of which he was not entitled to either of those because, as a consequence of his participation in an employment zone programme, he was engaged in remunerative work;
 - (iii) references to the claimant include references to his partner;
 - (iv) a reference to the claimant being entitled to and in receipt of a jobseeker's allowance shall include a reference to the claimant and his partner being entitled to and in receipt of a joint-claim jobseeker's allowance; 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) In the case of a claimant to whom regulation 6(2) of the Income Support (General) Regulations 1987 applies (persons not treated as engaged in remunerative work), entitlement to council tax benefit shall cease where—

- (a) the claimant was entitled to and in receipt of income support or an income-based jobseeker's allowance and that entitlement ceases;
- (b) the entitlement to income support or income-based jobseeker's allowance ceases by reason of the claimant commencing employment as an employed or self-employed earner; and
- (c) that work is expected to last 5 weeks or more,

and that entitlement shall cease at the end of the benefit week in which entitlement to income support or income-based jobseeker's allowance ceases.

(3) Paragraph (2) shall be omitted with effect from 25th October 2004.”.

Benefit period

13.—(1) Regulations 66 (benefit period)(19) and 67 (date on which benefit period is to end)(20) of the Housing Benefit Regulations are hereby revoked.

(2) Regulations 57(21) (benefit period) and 58(22) (date on which benefit period is to end) of the Council Tax Benefit Regulations are hereby revoked.

Change of circumstances

14. In regulation 68(23) of the Housing Benefit Regulations (date on which change of circumstances is to take effect)—

- (a) in paragraph (1) the words “regulation 8(3) (eligible housing costs) or” shall be omitted;
- (b) at the beginning of paragraphs (2), (3) and (4) there shall be inserted the words “Subject to paragraphs (13) and (14),”; and

(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.”.

(19) Relevant amending instruments are S.I. 1988/1971, 1989/1322, 1996/1510, 2000/4 and 2001/1605. Regulation 66 was disappplied, in relation to those who have attained the qualifying age for state pension credit, by S.I. 2003/325.

(20) Relevant amending instruments are S.I. 1990/546, 1995/560, 1996/1510 and 2001/1605. Regulation 67 was disappplied, in relation to those who have attained the qualifying age for state pension credit, by S.I. 2003/325.

(21) Relevant amending instruments are S.I. 1996/1510 and 2001/1605. Regulation 57 was disappplied, in relation to those who have attained the qualifying age for state pension credit, by S.I. 2003/325.

(22) Relevant amending instruments are S.I. 1995/560 and 1996/1510. Regulation 58 was disappplied, in relation to those who have attained the qualifying age for state pension credit, by S.I. 2003/325.

(23) 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, 325, 1338 and 2275.

Time claims are made or treated as made

- 15.**—(1) Subject to regulation 26 (transitional provision), in the Housing Benefit Regulations—
- (a) in regulation 65(1)(**24**), the words “regulation 72(12) to (14) (renewal claims) and” shall be omitted; and
 - (b) in regulation 72, paragraphs (12) to (14A)(**25**) (time and manner in which claims are to be made) shall be omitted.
- (2) Subject to regulation 26 (transitional provision), 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)(**26**) (time and manner in which claims are to be made) shall be omitted.

Amendment of regulation 70 of the Housing Benefit Regulations

16. In regulation 70 of the Housing Benefit Regulations (rent free periods) for the words “benefit period” in each case where they occur there shall be substituted “rent free period”.

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

- 17.**—(1) In regulation 76(**27**) of the Housing Benefit Regulations (who is to make a decision)—
- (a) paragraph (2)(d) shall be omitted;
 - (b) in paragraph (4)(a) for “62A(1B)” there shall be substituted “62A(2)”; and
 - (c) subject to sub-paragraph (d), in paragraph (5) for “62A(1A)(b)” there shall be substituted “paragraph 3A of Schedule 5A”; and
 - (d) in paragraph (4) the words “and subject to paragraph (5)” and paragraph (5) shall be omitted with effect from 25th October 2004.
- (2) In regulation 66(**28**) of the Council Tax Benefit Regulations (who is to make a decision)—
- (a) paragraph (2)(d) shall be omitted;
 - (b) in paragraph (4)(a) for “53A(1B)” there shall be substituted “53A(2)”; and
 - (c) subject to sub-paragraph (d), in paragraph (5)(b) “53A(1A)(b)” there shall be substituted the words “paragraph 3A of Schedule 5A”;
 - (d) in paragraph (4) the words “and subject to paragraph (5)” and paragraph (5) shall be omitted with effect from 25th October 2004.

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

18. Paragraph (2) of regulation 104(**29**) of the Housing Benefit Regulations and paragraph (2) of regulation 90(**30**) of the Council Tax Benefit Regulations (sums to be deducted in calculating recoverable excess benefit) shall be omitted.

(24) Regulation 65(1) was amended by [S.I.1990/671](#).

(25) 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](#).

(26) 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](#).

(27) Relevant amending instruments are [S.I.1996/194](#), [1999/2556](#), [2001/537](#) and [1605](#) and [2003/1338](#).

(28) Relevant amending instruments are [S.I. 1996/194](#) and [1510](#), [2001/537](#) and [1605](#) and [2003/1338](#).

(29) Regulation 104(2) was amended by [S.I. 2003/1338](#).

Amendment of regulation 95 of the Council Tax Benefit Regulations

19. In regulation 95(31) of the Council Tax Benefit Regulations (information to be supplied by an authority to another authority)—

- (a) in paragraph (3)—
 - (i) in sub-paragraph (a)(i) for the words “Part I” there shall be substituted the words “paragraph 2”;
 - (ii) in sub-paragraph (a)(ii) for the words “the requirements specified at paragraph 3(3)” there shall be substituted the words “the matters notified pursuant to regulation 53A and paragraph 3”;
 - (iii) subject to head (v), in sub-paragraph (aa) for the words “regulation 53(1A)(b)” there shall be substituted the words “paragraph 3A of Schedule 5A”;
 - (iv) for sub-paragraph (b)(iv) there shall be substituted—
 - “the date on which his entitlement to council tax benefit ceased”;
 - (v) sub-paragraph (aa) shall be omitted with effect from 25th October 2004; and
- (b) in paragraph (4) the words “the relevant benefit period” shall be omitted.

Amendment of Schedule 1A to the Housing Benefit Regulations

20. In Schedule 1A(32) to the Housing Benefit Regulations (excluded tenancies)—

- (a) 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.”; and
- (b) paragraphs 2(2A) and (3)(d) and 4 shall be omitted.

Amendment of Schedule 2 to the Housing Benefit Regulations and Schedule 1 to the Council Tax Benefit Regulations

21. Paragraph 8A(4)(33) of Schedule 2 to the Housing Benefit Regulations and paragraph 8A(4)(34) of Schedule 1 to the Council Tax Benefit Regulations (bereavement premium) shall be omitted.

(30) Regulation 90(2) was amended by S.I. 2003/1338.

(31) Relevant amending instruments are S.I. 1999/2556 and 2001/537.

(32) 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, 2002/2322 and 2003/1338.

(33) Paragraph 8A was inserted by S.I. 2000/2239.

(34) Paragraph 8A was inserted by S.I. 2000/2239.

Amendment of Schedule 5 to the Housing Benefit Regulations and Schedule 5 to the Council Tax Benefit Regulations

22.—(1) For paragraph 8(3)(**35**) of Schedule 5 to the Housing Benefit Regulations there shall be substituted—

“For the purposes of sub-paragraph (2), “award of housing benefit” means—

- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the claimant—
 - (i) is the person who received the relevant sum; or
 - (ii) is the partner of the person who received the relevant sum, or was that person’s partner at the date of his death.”.

(2) For paragraph 8(3)(**36**) of Schedule 5 to the Council Tax Benefit Regulations there shall be substituted—

“For the purposes of sub-paragraph (2), “award of council tax benefit” means—

- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the claimant—
 - (i) is the person who received the relevant sum; or
 - (ii) is the partner of the person who received the relevant sum, or was that person’s partner at the date of his death.”.

Amendment of Schedule 5A to the Housing Benefit Regulations and Schedule 5A to the Council Tax Benefit Regulations

23.—(1) In Schedule 5A(**37**) to the Housing Benefit Regulations (extended payments of housing benefit)—

- (a) paragraph 1 shall be omitted;
- (b) the following paragraph shall be inserted before paragraph 2—

“**1A.** Until 25th October 2004 this Schedule shall have effect subject to the following provisions of this paragraph—

- (a) after paragraph 3 there shall be inserted—

“**3A.** The condition referred to in regulation 62A(1)(c) is that the Secretary of State has certified to the relevant authority—

- (a) that regulation 6(2) of the Income Support (General) Regulations 1987 applies to the claimant;
- (b) the date on which the claimant was first engaged in the work referred to in regulation 6(2)(a) of those Regulations; and

(35) Sub-paragraph (2) was inserted by [S.I.2002/2380](#).

(36) Sub-paragraph (2) was inserted by [S.I. 2002/2380](#).

(37) Schedule 5A was inserted by [S.I. 1996/194](#); relevant amending instruments are [S.I. 1996/1510](#), [1999/2556](#), [2000/724](#), [2001/537](#) and [1605](#) and [2002/1397](#).

- (c) the date on which his entitlement to income support or an income-based jobseeker's allowance ceased or is expected to cease.”;
 - (b) in sub-paragraph (4) of paragraph 4 for “62A(5)(a)” there shall be substituted “62A(6) or (9), as the case may be.”; and
 - (c) in paragraph 8(b) for “62A(5)(a)” there shall be substituted “62A(6) or (9), as the case may be.”;
- (c) in paragraph 2(e)—
 - (i) head (i) shall be omitted;
 - (ii) for head (ii) there shall be substituted—
 - “a claimant satisfies the conditions of this sub-paragraph if he has been entitled to and in receipt of a combination of income support and a jobseeker's allowance for at least 26 weeks and for the purposes of this sub-paragraph, a reference to the claimant being entitled to and in receipt of a jobseeker's allowance shall include a reference to the claimant and his partner being entitled to and in receipt of a joint-claim jobseeker's allowance.”;
- (d) in paragraph 3—
 - (i) after sub-paragraph (a)(ii) there shall be inserted—
 - “or
 - (iii) has commenced, or is about to commence, an increased number of hours of work,; and”
 - (ii) in sub-paragraph (b) after “in sub-paragraph (a)(ii)” there shall be inserted “, or first commences the increased number of hours of work referred to in sub-paragraph (a)(iii)”;
- (e) in paragraph 4—
 - (i) in sub-paragraph (1) for the words “the termination of the relevant benefit period” there shall be substituted “he ceased to be entitled to housing benefit”; and
 - (ii) in sub-paragraph (2) the words “in the relevant benefit period” shall be omitted;
 - (iii) in sub-paragraph (3)—
 - (aa) for the words “the termination of the relevant benefit period” in the first place that they occur there shall be substituted “he ceased to be entitled to housing benefit”;
 - (bb) for the words “the termination of the relevant benefit period” in the second place that they occur there shall be substituted “he cased to be entitled to housing benefit”;
 - (iv) in sub-paragraph (4) for “62A(5)(a)” there shall be substituted “62A(6)”;
- (f) in paragraph 6(1)—
 - (i) for the words “the ending of the relevant benefit period” there shall be substituted “the mover ceasing to be entitled to housing benefit”; and
 - (ii) for the words “the termination of the relevant benefit period” there shall be substituted “he ceased to be entitled to housing benefit”;
- (g) in paragraph 8(b) for “62A(5)(a)” there shall be substituted “62A(6)”;
- (h) in paragraph 12(1)—
 - (i) the following definitions shall be omitted—
 - (aa) “the last day”;

- (bb) “the relevant benefit period”; and
- (ii) for the definition of “second dwelling” there shall be substituted—
 - ““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 in respect of rent of his previous dwelling;”; and
- (i) in paragraph 12(1) in the definition of the word “claimant” the words “, subject to sub-paragraph (2),” and paragraph 12(2) shall be omitted with effect from 25th October 2004.
- (2) In Schedule 5A(38) to the Council Tax Benefit Regulations (extended payment of council tax benefit)—
 - (a) paragraph 1 shall be omitted;
 - (b) the following paragraph shall be inserted before paragraph 2—
 - “1A. Until 25th October 2004 this Schedule shall have effect subject to the following provisions of this paragraph—
 - (a) after paragraph 3 there shall be inserted—
 - “3A. The condition referred to in regulation 53A(1)(c) is that the Secretary of State has certified to the relevant authority—
 - (a) that regulation 6(2) of the Income Support (General) Regulations 1987 applies to the claimant;
 - (b) the date on which the claimant was first engaged in the work referred to in regulation 6(2)(a) of those Regulations; and
 - (c) the date on which his entitlement to income support or an income-based jobseeker’s allowance ceased or is expected to cease.”; and
 - (b) in paragraphs 6 and 7 for “53A(5)(a)” in both places that it occurs there shall be substituted “53A(6) or (9), as the case may be.”;”
 - (c) in paragraph 2(e)—
 - (i) head (i) shall be omitted;
 - (ii) for head (ii) there shall be substituted—
 - “a claimant satisfies the conditions of this sub-paragraph if he has been entitled to and in receipt of a combination of income support and a jobseeker’s allowance for at least 26 weeks and for the purposes of this sub-paragraph, a reference to the claimant being entitled to and in receipt of a jobseeker’s allowance shall include a reference to the claimant and his partner being entitled to and in receipt of a joint-claim jobseeker’s allowance;”;
 - (d) in paragraph 3—
 - (i) after sub-paragraph (a)(ii) there shall be inserted—
 - “or
 - (iii) has commenced, or is about to commence, an increased number of hours of work;”; and

(38) Schedule 5A was inserted by S.I. 1996/194; relevant amending instruments are S.I. 1996/1510, 1999/2556, 2000/724, 2001/537 and 1605.

- (ii) in sub-paragraph (b) after “in sub-paragraph (a)(ii)” there shall be inserted “, or first commences the increased number of hours of work referred to in sub-paragraph (a)(iii)”;
- (e) in paragraph 4 for the words “the termination of the relevant benefit period” substitute “he ceased to be entitled to council tax benefit”;
- (f) in paragraphs 6 and 7 for “53A(5)(a)” in both places that it occurs there shall be substituted “53A(6)”; and
- (g) in paragraph 8(1)—
 - (i) the following definitions shall be omitted—
 - (aa) “the last day”;
 - (bb) “the relevant benefit period”; and
 - (ii) for the definition of “second dwelling” there shall be substituted—

““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 in respect of which he is or will be liable to pay council tax”; and
- (h) in paragraph 8(1) the words “, subject to sub-paragraph (2),” in the definition of “claimant”, and paragraph 8(2) shall be omitted with effect from 25th October 2004.

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

24.—(1) In Schedule 6 to the Housing Benefit Regulations (matters to be included in the decision notice)—

- (a) paragraph 9(h)(**39**) shall be omitted; and
- (b) in paragraph 14(1)(e) the words “in each benefit period” to the end of the sub-paragraph shall be omitted.

(2) In Schedule 6 to the Council Tax Benefit Regulations (matters to be included in the decision notice)—

- (a) paragraph 9(e)(**40**) shall be omitted;
- (b) paragraph 13(e) shall be omitted; and
- (c) in paragraph 16(e) the words “in each benefit period” to the end of the sub-paragraph shall be omitted.

Minor and consequential amendments

25.—(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”.

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

- (a) regulation 11(9) and (10)(**41**) (maximum rent); and
- (b) regulation 75(1)(**42**) (duty to notify change of circumstances).

(39) Relevant amending instruments are S.I. 1989/416, 1990/546, 1996/1510, 2001/1605 and 2003/325 and 1338.

(40) Relevant amending instruments are S.I. 1989/416, 1990/546, 1996/1510, 2001/1605 and 2003/325 and 1338.

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

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

(3) In regulation 65(1)(**43**) 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”.