

## 2006 No. 217

### SOCIAL SECURITY

#### The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006

<i>Made</i> - - - -	<i>2nd February 2006</i>
<i>Laid before Parliament</i>	<i>10th February 2006</i>
<i>Coming into force</i>	<i>6th March 2006</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred upon him by sections 123(1)(d) and (e), 130(2) to (4), 131(3)(b), (5)(c)(ii), (7)(b) and (10), 132, 133(3) and (4), 134, 135(1), (2) and (6), 136, 136A(3) and (4)(a), 137(1) and (2)(c) to (f), (1) and (m) and 175(1) and (3) to (6) of the Social Security Contributions and Benefits Act 1992(a), sections 1(1) and (1C), 5(1)(a) to (d) and (g) to (r) and (6), 6(1)(a) to (d), (g) to (r) and (u), 7(2), 7A, 75, 76(1) to (3), (6) and (8), 77(1), 113, 122E(3) and (4), 126A, 128A, 134(1A) and (8)(b), 138(1) and (9), 139(6)(b), 189(1) and (3) to (6) and 191 of the Social Security Administration Act 1992(b), section 122(3) and (5) of the Housing Act 1996(c) and sections 34, 79(1) and (4) and 84 of the Social Security Act 1998(d).

These Regulations are made for the purpose only of consolidating other regulations revoked by these Regulations(e).

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

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- (a) 1992 c. 4; sections 123(1)(e) and 131 were amended to have effect in relation to council tax benefit by the Local Government Finance Act 1992 (c. 14), Schedule 9, paragraphs 1 and 4; section 136A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act 2002 (c. 16); section 137(1) is an interpretation provision and is cited for the meaning of the words “family” and “prescribed”; sections 175(1) and (4) were amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2); and section 175(5) was amended by paragraph 36 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c. 18).
- (b) 1992 c. 5; section 7A was inserted by the Welfare Reform and Pensions Act 1999 (c. 30); section 122E was inserted by the Social Security Administration (Fraud) Act 1997 (c. 47), section 3; section 126A was inserted by section 11 of the Social Security Administration (Fraud) Act 1997 (c. 47); section 128A was inserted by section 28(2) of the Jobseekers Act 1995 (c. 18); section 189(1) was amended by paragraph 57 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) 1999, Schedule 8 and paragraph 109 of Schedule 7 to the Social Security Act 1998 (c. 14) and Schedule 6 to the Tax Credits Act 2002 (c. 21); section 134 was amended by the Housing Act 1996 (c. 52), Schedule 12, paragraph 1; section 189(4) and (5) was amended by Schedule 8 and paragraph 109 of Schedule 7 to the Social Security Act 1998; section 191 is cited for the meaning of the word “prescribe”.
- (c) 1996 c. 52.
- (d) 1998 c. 14; section 34(1) to (3) was amended by the State Pension Credit Act 2002, Schedule 2, paragraphs 40 and 41; section 79(1) was amended by paragraphs 12 and 13 of Schedule 4 to the Tax Credits Act 2002; section 84 is cited for the meaning of the word “prescribe”.
- (e) See the Social Security Administration Act 1992(c. 5), Schedule 7, Part 1, paragraph 10.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 and shall come into force on 6th March 2006.

(2) In these Regulations—

“the Act” means the Social Security Contributions and Benefits Act 1992;

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

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

“Council Tax Benefit Regulations” means the Council Tax Benefit Regulations 2006(c);

“the Council Tax Benefit (State Pension Credit) Regulations” means the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(d);

“the Housing Benefit Regulations” means the Housing Benefit Regulations 2006(e);

“the Housing Benefit (State Pension Credit) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(f);

“the consolidating Regulations” means the Council Tax Benefit Regulations, the Council Tax Benefit (State Pension Credit) Regulations, the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations.

**Continuity of the law**

2.—(1) The coming into force of the consolidating Regulations does not affect the continuity of the law.

(2) Anything done or having effect as if done under or for the purposes of a provision revoked by these Regulations has effect, if it could have been done under or for the purposes of the corresponding provision of the consolidating Regulations, as if done under or for the purposes of that provision.

(3) Any reference, whether express or implied, in the consolidating Regulations or any other instrument or document to a provision of the consolidating Regulations shall, in so far as the context permits, be construed as including, in relation to the times, circumstances and purposes in relation to which the corresponding provision of any regulation revoked by these Regulations has effect, a reference to that corresponding provision.

(4) Any reference, whether express or implied, in any instrument or document to a provision of a regulation revoked by these Regulations shall be construed, so far as is required for continuing effect, as including a reference to the corresponding provision of the consolidating Regulations.

**Revocations**

3.—(1) The provisions specified in column 1 of Schedule 1 to these Regulations are revoked to the extent specified in column 3 of that Schedule.

(2) The revocations have effect subject to any relevant savings in Schedule 3.

**Documents referring to revoked provisions**

4. Any document made, served or issued after the consolidating Regulations comes

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(a) S.I. 1987/1971.

(b) S.I. 1992/1814.

(c) S.I. 2006/215.

(d) S.I. 2006/216.

(e) S.I. 2006/213.

(f) S.I. 2006/214.

into force which contains a reference to any of the regulations revoked by these Regulations shall be construed, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of the consolidating Regulations.

**Consequential amendments**

5. The amendments specified in Schedule 2 to these Regulations, which are consequential upon the consolidating Regulations, shall have effect.

**Transitional provisions and savings**

6.—(1) The provisions of Schedule 3 to these Regulations (which contains transitional provisions and savings) shall have effect.

(2) The revocation by these Regulations of any provision previously repealed subject to savings does not affect the continued operation of those savings.

**Transitory modifications**

7. The transitory modifications in Schedule 4 to these Regulations shall have effect.

**Amending Orders**

8. An order which is made under section 150 of the Social Security Administration Act 1992 after the consolidating Regulations have been made and which amends any of the Regulations scheduled to be revoked by these Regulations shall have the effect also of making a corresponding amendment of the consolidating Regulations.

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

2nd February 2006

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

**HOUSING BENEFIT AND COUNCIL TAX BENEFIT (CONSEQUENTIAL PROVISIONS) REGULATIONS 2006**

<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
<b>SCHEDULE 1</b>		Regulation 3
Revocations		
<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Housing Benefit (General) Regulations 1987	1987/1971	The whole Regulations.
The Housing Benefit (General) (Amendment) Regulations 1988	1988/661	The whole Regulations.
The Housing Benefit (Supply of Information) Regulations 1988	1988/662	The whole Regulations.
The Housing Benefit (General) Amendment No.2 Regulations 1988	1988/909	The whole Regulations.
The Housing Benefit (General) Amendment No.3 Regulations 1988	1988/1444	The whole Regulations.
The Housing Benefit (General) Amendment No.4 Regulations 1988	1988/1971	The whole Regulations.
The Housing Benefit (General) Amendment Regulations 1989	1989/416	The whole Regulations.
The Housing Benefit (General) Amendment No.2 Regulations 1989	1989/566	The whole Regulations.
The Housing Benefit (General) Amendment No.3 Regulations 1989	1989/1017	The whole Regulations.
The Income-related Benefits Scheme Amendment Regulations 1990	1990/127	Regulation 4.
The Housing Benefit (General) Amendment Regulations 1990	1990/546	The whole Regulations.
The Income-related Benefits (Miscellaneous Amendments) Regulations 1990	1990/671	Regulation 4.
The Social Security Benefits (Student Loans and Miscellaneous Amendments) 1990	1990/1549	Regulation 4 and, in so far as it has effect in relation to housing benefit, regulation 7.
The Income-related Benefits Amendment Regulations 1990	1990/1657	Regulation 4.

<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Housing Benefit (General) (Amendment No.2) Regulations 1990	1990/1775	The whole Regulations.
The Social Security (Miscellaneous Provisions) Regulations 1990	1990/2208	Regulation 17.
The Housing Benefit (General) Amendment No.3 Regulations 1990	1990/2564	The whole Regulations.
The Housing Benefit (General) Amendment Regulations 1991	1991/235	The whole Regulations.
The Enterprise (Scotland) (Consequential Amendments) Order 1991	1991/387	Article 11 and the entry in the Schedule relating to the Housing Benefit (General) Regulations 1987.
The Income-related Benefit Schemes and Social Security (Recoupment) Amendment Regulations 1991	1991/1175	Regulation 4.
The Housing Benefit and Community Charge Benefits (Miscellaneous) Amendment Regulations 1991	1991/1599	The whole of the Regulations in so far as they are still in force.
The Income-related Benefits Schemes (Miscellaneous Provisions) Amendment Regulations 1991	1991/2695	Regulation 4.
The Disability Living Allowance and Disability Working Allowance (Consequential Provisions) Regulations 1991	1991/2742	Regulation 12.
The Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1992	1992/50	In regulation 1(1)– (a) in sub-paragraph (a) the words “, and regulation 2” to “multiple of a week”; (b) sub-paragraph (b).  In regulation 1(2), the reference to the Housing Benefit Regulations.  Regulation 2.

<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Housing Benefit (General) Amendment Regulations 1992	1992/201	The whole Regulations.
The Housing Benefit and Community Charge Benefits (Miscellaneous Amendments) Regulations 1992	1992/432	The whole Regulations, in so far as still in force.
The Income-related Benefits Schemes and Social Security (Recoupment) Amendment Regulations 1992	1992/1101	In regulation 1(2), the reference to “the Housing Benefit Regulations”. Regulation 5.
The Income-related Benefits Schemes (Miscellaneous Amendments)(No.2) Regulations 1992	1992/1585	Regulation 1(1)(b) in so far as it relates to regulation 2(2)(d) and (3)  In regulation 1(2) the reference to the “Housing Benefit Regulations”  Regulations 2(2)(d) and 3.
The Council Tax Benefit (General) Regulations 1992	1992/1814	The whole Regulations.
The Housing Benefit and Community Charge Benefits (Miscellaneous Amendments) (No. 2) Amendments 1992	1992/2148	The whole Regulations, in so far as still in force.
The Social Security Benefits (Amendments Consequential Upon the Introduction of Community Care) Regulations 1992	1992/3147	In regulation 1(2), the definition of “the Housing Benefit Regulations”.  Regulations 4 to 6.
The Housing Benefit (General) Amendment Regulations 1993	1993/317	The whole Regulations.
The Social Security Benefits (Miscellaneous Amendments) Regulations 1993	1993/518	Regulation 6.
The Council Tax Benefit Amendment Regulations 1993	1993/688	The whole (General) Regulations.
The Social Security Benefits (Miscellaneous Amendments) (No.2) Regulations 1993	1993/963	Regulations 4 and 5.

<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Income-related Benefits Schemes (Miscellaneous Amendments) (No.2) Regulations 1993	1993/1150	In regulation 1(2), the definitions of “the Housing Benefit Regulations” and “the Council Tax Benefit Regulations”.  Regulations 2 and 5.
The Income-related Benefits Schemes and Social Security (Recoupment) Amendment Regulations 1993	1993/1249	In regulation 1(1)(a), the words “except for regulation 3(5)”.  Regulations 1(1)(b), 2(b) and (e), 3 and 6.
The Social Security Benefits (Miscellaneous Amendments) (No.3) Regulations 1993	1993/1540	In regulation 1(3), the definition of “the Housing Benefit Regulations”.  Regulations 2(2)(a) and (d) and 3.
The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) Regulations 1993	1993/2118	The whole Regulations.
The Housing Benefit and Tax Council Benefit (Amendment) Regulations 1994	1994/470	The whole Regulations.
The Housing Benefit and Tax Council Benefit (Miscellaneous Amendments) Regulations 1994	1994/578	The whole Regulations.
The Housing Benefit (General) Amendment Regulations 1994	1994/1003	The whole Regulations.
The Income-related Benefits Schemes (Miscellaneous Amendments) (No.2) Regulations 1994	1994/1608	In regulation 1(2), the definition of “the Housing Benefit Regulations”.  Regulations 2(2)(a) and (d) and 3.
The Income-related Benefits Schemes (Miscellaneous Amendments) (No.3) Regulations 1994	1994/1807	Regulations 2 and 3.
The Income-related Benefits Schemes (Miscellaneous Amendments) (No.4) Regulations 1994	1994/1924	Regulations 2 and 5.

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<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Housing Benefit (Supply of Information) and Council Tax (General) Amendment Regulations 1994	1994/1925	The whole Regulations, in so far as still in force.
The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No.2) Regulations 1994	1994/2137	The whole of the Regulations.
The Income-related Benefits Schemes (Miscellaneous Amendments) (No. 6) Regulations 1994	1994/3061	Regulations 3 and 4.
The Housing Benefit and Council Tax Benefit (Amendment) Regulations 1995	1995/511	The whole Regulations.
The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) Regulations 1995	1995/560	The whole Regulations.
The Housing Benefit, Council Tax Benefit and Income Support (Amendments) Regulations 1995	1995/625	The whole of the Regulations, in so far as still in force.
The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments)(No.2) Regulations 1995	1995/626	The whole Regulations, in so far as still in force.
The Housing Benefit (General) Regulations 1995	1995/1644	The whole Regulations.
The Income-related Benefits Schemes and Social Security (Claims and Payments) (Miscellaneous Amendments) Regulations 1995	1995/2303	In regulation 1, paragraph (2) and in paragraph (7) the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.
		Regulations 2, 5, 7 and 9.
The Income-related Benefits Schemes Amendment (No. 2) Regulations 1995	1995/2792	Regulations 2, 5, 7 and 8.
The Housing Benefit (General) Amendment (No.2) Regulations 1995	1995/2868	The whole Regulations.
The Income-related Benefits Schemes (Widows’ etc. Pensions Disregards) Amendment Regulations 1995	1995/3282	Regulation 2(1)(a), (c) and (f).



<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Social Security (Persons From Abroad) Miscellaneous Amendments Regulations 1996	1996/30	Regulations 3 and 7.
The Housing Benefit, Supply of Information and Council Tax Benefit (Amendment) Regulations 1996	1996/194	The whole Regulations.
The Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1996	1996/462	In regulation 1, paragraph (4) and in paragraph (6), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  Regulations 3, 4, 5, 6 8(b) and (c), 9(2)(b) and (c) and 10 (2)(b) and (c).  Regulation 11(2) in so far as still in force.  Regulation 12(2).
The Housing Benefit (General) Amendment Regulations 1996	1996/965	The whole Regulations.
The Housing Benefit, Council Tax Benefit and Supply of Information (Jobseeker’s Allowance) (Consequential Amendment) Regulations 1996	1996/1510	The whole Regulations.
The Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations 1996	1996/1803	In regulation 1(1), the words “22 to 28, 30 and 35(b),”.  Regulation 1(1)(c).  In regulation 1(4), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  Regulations 22 to 36.
The Income-related Benefits Schemes and Social Fund (Miscellaneous Amendments) Regulations 1996	1996/1944	In regulation 1, paragraphs (2) and (3), and in paragraph (8), the definitions of “the Council Tax Benefit Regulations”

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<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
		and “the Housing Benefit Regulations”;
		Regulations 2, 5, 7, 10 and 11;
		In regulation 13, the words “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”;
		In the Schedule, paragraphs 1(2)(a) and (d), 2(1) and (2), 4, 6 and 7(2)(a) and (d).
The Council Tax Benefit and Benefit (Miscellaneous Amendments) Regulations 1996	1996/2432	The whole Housing Regulations.
The Social Security (Non-Dependant Deductions) Regulations 1996	1996/2518	Regulation 1(1)(a) and (b).  Regulations 2 and 3.
The Income-related Benefits and Jobseeker’s Allowance (Personal Allowances for Children and Young Persons) (Amendment) Regulations 1996	1996/2545	In regulation 1, paragraphs (3) and (4) and in paragraph (6) the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  Regulations 2(7)(c) and (d) and 3.  In regulation 10(1) the words “housing benefit or council tax benefit”.
The Social Security (Child Maintenance Bonus) Regulations 1996	1996/3195	Regulation 15(c) and (d).
The Income-related Benefits and Jobseeker’s Allowance (Miscellaneous Amendments) Regulations 1997	1997/65	In regulation 1, paragraphs (4) and (5) and in paragraph (7) the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.

<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
		Regulation 2(1) and (2).
		Regulation 3(3)(a) and (c).
		Regulations 11 to 15.
The Housing Benefit (General) Regulations 1997	1997/584	The whole Regulations.
The Housing Benefit and Council Tax Benefit (General) Amendment Regulations 1997	1997/852	The whole Regulations.
The Council Tax Benefit (General) Amendment Regulations 1997	1997/1841	The whole Regulations.
The Housing Benefit (General) Amendment (No. 2) Regulations 1997	1997/1974	The whole Regulations.
The Housing Benefit (General) Amendment (No. 3) Regulations 1997	1997/1975	The whole Regulations.
The Income-related Benefits and Jobseeker's Allowance (Amendment) (No. 2) Regulations 1997	1997/2197	In regulation 1(5), the definitions of "the Council Tax Benefit Regulations" and "the Housing Benefit Regulations".
		Regulation 4.
		In regulation 7, paragraphs (1), (2), (4)(a) and (d), (8)(a) and (d) and (10)(a) and (d).
The Housing Benefit and Council Tax Benefit (General) Amendment (No. 2) Regulations 1997	1997/2434	The whole Regulations.
The Housing Benefit (Recovery of Overpayments) Regulations 1997	1997/2435	The whole Regulations.
The Housing Benefit (Recovery of Overpayments) (No. 2) Regulations 1997	1997/2619	The whole Regulations.
The Income-related Benefits (Miscellaneous Amendments) Regulations 1997	1997/2793	The whole Regulations in so far as still in force.
The Social Security Amendment (New Deal) Regulations 1997	1997/2863	In regulation 1(2), the definitions of "the

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<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
		Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.
		Regulation 17(2)(a) and (d), (4)(a) and (d), (6)(a) and (d), (8)(a) and (d), (10)(a) and (d), and (12)(a) and (d).
		Regulation 18.
The Social Security (Miscellaneous Amendments) Regulations 1998	1998/563	In regulation 1, paragraphs (4) and (6), and in paragraph (7) the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.
		Regulation 4(2)(a) and (d) and (4)(a) and (d)
		Regulation 5 (2)(a) and (d).
		Regulation 6 (2)(a) and (d).
		Regulation 7 (2)(a) and (d), (4)(a) and (d). (5) and (6).
		Regulation 8 (2)(a) and (b).
		Regulations 9, 10, 11 and 17.
		Regulation 18 (4)(a) and (b).
The Social Security Amendment (Lone Parents) Regulations 1998	1998/766	In regulation 1(3), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.
		Regulations 3 to 11.
The Council Tax Benefit (General) Amendment Regulations 1998	1998/911	The whole Regulations.

<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Social Security (Miscellaneous Amendments) (No.3) Regulations 1998	1998/1173	Regulation 2.
The Social Security (Miscellaneous Amendments) (No. 4) Regulations 1998	1998/1174	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  Regulation 7(2)(a) and (d), (4)(a) and (d), (6)(a) and (d), (8)(a) and (d), (10)(a) and (d), and (12)(a) and (d).  Regulation 8(2)
The Social Security Amendment (New Deal) Regulations 1998	1998/1274	Regulation 10.
The Social Security (Student Amount Amendments) Regulations 1998	1998/1379	Regulation 2(2)(a) and (d);  Regulation 3.
The Housing Benefit (General) Amendment Regulations 1998	1998/1732	The whole Regulations.
The Housing Benefit and Council Tax Benefit Amendment (New Deal) Regulations 1998	1998/2164	The whole Regulations.
The Social Security (Welfare to Work) Regulations 1998	1998/2231	Regulations 8 to 12.
The Social Security Amendment (Capital) Regulations 1998	1998/2250	Regulation 2(2)(a) and (d).
The Housing Benefit (General) Amendment (No. 2) Regulations 1998	1998/3257	The whole Regulations.
The Housing Benefit and Council Tax Benefit (General) Amendment Regulations 1999	1999/920	The whole Regulations.
The Social Security Amendment (Non-Cash Vouchers) Regulations 1999	1999/1509	Regulations 1(3) and 2(1) and (4).
The Housing Benefit and Council Tax Benefit (General) Amendment (No.2) Regulations 1999	1999/1539	The whole Regulations.
The Social Security Amendment (Students) Regulations 1999	1999/1935	Regulation 1(1)(c)

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<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
		Regulations 4 and 5.
The Social Security Amendment (Sports Awards) Regulations 1999	1999/2165	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.
		Regulation 2(2)(a) and (d).
		Regulations 3 and 5.
The Housing Benefit (General) Amendment (No.2) Regulations 1999	1999/2401	The whole Regulations.
The Social Security Amendment (Personal Allowances for Children and Young Persons) Regulations 1999	1999/2555	Regulation 1(7)(b) and (c)
		Regulation 2(2)(a) and (b).
The Social Security (Miscellaneous Amendments) (No. 2) Regulations 1999	1999/2556	Regulations 4, 5 and 6.
The Social Security Amendment (Notional Income and Capital) Regulations 1999	1999/2640	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.
		Regulation 2(2) and (3)(a) and (b).
The Housing Benefit (General) Amendment (No. 3) Regulations 1999	1999/2734	The whole Regulations.
The Social Security (Claims and Information) Regulations 1999	1999/3108	In regulation 2, the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.
		Regulations 9 to 12.
The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999	1999/3178	Article 3(7),
		Schedule 7.

<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Housing Benefit and Council Tax Benefit (General) Amendment Regulations 2000	2000/4	The whole Regulations.
The Social Security Maintenance (Education Maintenance Allowance) Regulations 2000	2000/55	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  In regulation 2, in paragraph (2), sub-paragraphs (a) and (b) and in paragraph (4), sub-paragraphs (a) and (b).
The Social Security (Immigration and Asylum) (Consequential Amendments) Regulations 2000	2000/636	In regulation 1(3), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  Regulations 6 and 7.  Regulation 12(6),(7) and (8).
The Housing Benefit (General) Amendment Regulations 2000.	2000/638	The whole Regulations.
The Social Security (Approved Work) Regulations 2000	2000/678	Regulation 2(3).
The Social Security (Miscellaneous Amendments) Regulations 2000	2000/681	In regulation 1–  (a) in paragraph (1), in sub-paragraph (a) “4(5), 5(in so far as it relates to council tax benefit) and 8” and sub-paragraph (2); (b) paragraph (2); and (c) in paragraph (4), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  Regulation 4(4) and (5).

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<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
		Regulations 5, 8 and 10.
		Regulation 12(c).
The Social Security (Employment Zones) Regulations 2000	2000/724	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.
		Regulation 2(2)(a) and (b).
		Regulation 3(2)(a) and (b), (3)(c) and (d) and (4)(c) and (d).
		Regulation 4(1) and (2).
The Social Security (Work-focused Interviews) Regulations 2000	2000/897	Regulation 16 (3). Schedules 2, 3 and 4.
The Income-related Benefits and Jobseeker’s Allowance (Amendment) Regulations 2000	2000/979	Regulations 4 and 5.
The Housing Benefit and Council Tax Benefit (General) Amendment (No. 2) Regulations 2000	2000/1471	The whole Regulations.
The Social Security Amendment (Students and Income-related Benefits) Regulations 2000	2000/1922	Regulations 1(c), 4 and 5.
The Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000	2000/1926	In regulation 10, the words “the Housing Benefit (General) Regulations 1987, the Council Tax Benefit (General) Regulations 1992”.
		Schedule 2, paragraphs 2 and 3.
The Social Security Amendment (Students) Regulations 2000	2000/1981	Regulations 1(2), 2, 3 and 4.
The Social Security (Joint Claims: Consequential Amendments) Regulations 2000	2000/1982	Regulation 4.
The Social Security Amendment (Personal Allowances for Children) Regulations 2000	2000/1993	Regulation 2(2)(a) and (b).



<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Housing Benefit and Council Tax benefit (General) Amendment (No. 3) Regulations 2000	2000/2085	The whole Regulations.
The Social Security Amendment (Bereavement Benefits) Regulations 2000	2000/2239	In regulation 1(4), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”;  Regulations 4 and 5;  In regulation 6, “4(2) and 5(2)” and “the Housing Benefit Regulations and the Council Tax Benefit Regulations”.
The Housing Benefit and Council Tax Benefit (General) Amendment (No. 4) Regulations 2000	2000/2331	The whole Regulations.
The Social Security (Students and Income-related Benefits)(No. 2) Regulations 2000	2000/2422	Regulations 2 and 3.
The Social Security Amendment (Capital Limits and Earnings Disregards) Regulations 2000	2000/2545	In regulation 1 paragraph (1)(a) and (b) and in paragraph (4), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”;  Regulation 2(3) and (4).  In regulation 4 the words “Paragraph 3(4)(c) of Schedule 3 to both the Council Tax Benefit Regulations and to the Housing Benefit Regulations”;  In the Schedule, paragraph 1.
The Social Security Amendment (Enhanced Disability Premium) Regulations 2000	2000/2629	In regulation 1, in paragraph (a), “and regulation 4” and paragraph (b).  Regulations 3 and 4.

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<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Social Security Amendment (Employment Zones)(No. 2) Regulations 2000	2000/2910	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”;  Regulations 2(2)(a) and (b), 4(2)(a) and (b) and 5(3).
The Social Security (Child Maintenance Premium and Miscellaneous Amendments) Regulations 2000	2000/3176	Regulation 3.
The Social Security Amendment (Capital Disregards) Regulations 2001	2001/22	Regulation 2 (c) and (d).
The Housing Benefit (General) Amendment Regulations 2001	2001/487	The whole Regulations.
The Social Security Amendment (Joint Claims) Regulations 2001	2001/518	Regulation 6.
The Housing Benefit and Council Tax Benefit (Extended Payments) Regulations 2001	2001/ 537	The whole Regulations.
The Social Security (Miscellaneous Amendments) (No.2) Regulations 2001	2001/652	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  In regulation 2(1) the words “each of the Council Tax Benefit Regulations, the Housing Benefit Regulations and”;  Regulation 3(2)(a) and (b).
The Social Security (Miscellaneous Amendments) (No.3) Regulations 2001	2001/859	In regulation 1 paragraph (1)(b) and in paragraph (5) the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  Regulation 2.

<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
		In regulation 6, paragraphs (1) and (3)(a) and (b).
The Social Security Amendment (New Deal) Regulations 2001	2001/1029	In regulation 1(3), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.
		Regulation 15(1), (3)(a) and (b), (5)(a) and (b), (7)(a) and (b), (9)(a) and (b), (11)(a) and (b), (13)(a) and (b) and (15)(a) and (b).
The Social Security (Capital Disregards and Recovery of Benefits) Regulations 2001	2001/1118	Regulation 2(2).
The Housing Benefit (General) Amendment (No.2) Regulations 2001	2001/1190	The whole Regulations.
The Housing Benefit (General) Amendment (No. 3) Regulations 2001	2001/1324	The whole Regulations.
The Housing Benefit and Council Tax Benefit (Decisions and Appeals and Discretionary Financial Assistance) (Consequential Amendments and Revocations) Regulations 2001	2001/1605	The whole Regulations.
The Social Security (Breach of Community Order) (Consequential Amendments) Regulations 2001	2001/1711	Regulation 2(1).
The Housing Benefit and Council Tax Benefit (General) Amendment Regulations 2001	2001/1864	The whole Regulations.
The Social Security Amendment (Volunteers) Regulations 2001	2001/2296	Regulation 2(2)(a) and (b).
The Social Security Amendment (Students and Income-related Benefits) Regulations 2001	2001/2319	In regulation 1, paragraph (1)(c) and in paragraph (2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.
		Regulation 2(2)(a) and (b) and (4).

<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
		Regulation 3(3)(a) and (b), (4)(a) and (b) and (5).
		Regulation 4(a) and (b).
		Regulations 5(3) and (4), 6(a) and (b) and 7.
The Social Security Amendment (Discretionary Housing Payments) Regulations 2001	2001/2333	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.
		Regulation 2(1)(a) and (b) and (2)(a) and (b).
		Regulation 3.
The Children (Leaving Care) Act 2000 (Commencement No. 2 and Consequential Provisions) Order 2001	2001/3070	Article 3(3) and (4)
		Schedules 2 and 3.
The Social Security Amendment (Capital Disregards) (No. 2) Regulations 2001	2001/3481	Regulation 2(a) and (b)
The Social Security (Loss of Benefit) (Consequential Amendments) Regulations 2002	2002/490	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.
		Regulations 2(1)(b) and (c) and 5.
The Housing Benefit and Council Tax Benefit (Child Care Charges) Regulations 2002	2002/499	The whole Regulations.
The Social Security (Miscellaneous Amendments) Regulations 2002	2002/841	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.
		Regulations 4 and 5.

<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Social Security (Claims and Information) (Housing Benefit and Council Tax Benefit) Regulations 2002	2002/1132	The whole Regulations.
The Secretaries of State for Education and Skills and for Work and Pensions Order 2002	2002/1397	In the Schedule, paragraphs 19, 20 and 21.
The Social Security Amendment (Students and Income-related Benefits) Regulations 2002	2002/1589	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  Regulations 2(2)(a) and (b), 3(3)(a) and (b), 4(2)(a) and (b), (4)(a) and (b), (6)(a) and (b) and 8(a) and (b), 5(6)(a) and (b) and 6.
The Social Security (Jobcentre Plus Interviews) Regulations 2002.	2002/1703	In Schedule 2, paragraphs 2 and 4.
The Social Security Amendment (Intercalating Students) Regulations 2002	2002/1763	Regulation 2(2)(a) and (b).
The Social Security Amendment (Personal Allowances for Children and Young Persons) Regulations 2002	2002/2019	In the heading to regulation 2, the words “housing benefit and council tax benefit”.  Regulation 2(2)(c) and (d).
The Social Security Amendment (Carer Premium) Regulations 2002	2002/2020	In the heading to regulation 2 the words “Housing Benefit and Council Tax Benefit” and in regulation 2 the words “, paragraph 14ZA of Schedule 2 to the Housing Benefit (General) Regulations 1987 and in paragraph 16 of Schedule 1 to the Council Tax Benefit (General) Regulations 1992”.
The Social Security Amendment (Students and Income-related Benefits)(No.2) Regulations 2002	2002/2207	Regulation 2(3)(a) and (b).

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<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Social Security Amendment (Employment Programme) Regulations 2002	2002/2314	Regulations 4 and 5.
The Housing Benefit (General) Amendment Regulations 2002	2002/2322	The whole Regulations.
The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2002	2002/2380	Regulations 4 and 5.
The Income-related Benefits and Jobseeker's Allowance (Working Tax Credit and Child Tax Credit) (Amendment) Regulations 2002	2002/2402	Regulation 1(4), (5) and (6).  In regulation 1(7), the definitions of "the Council Tax Benefit Regulations" and "the Housing Benefit Regulations".  Regulations 4 and 5.  Schedules 3 and 4, in so far as they are still in force.
The Social Security Amendment (Personal Injuries Payments) 2002	2002/2442	In regulation 1(2), the definitions of "the Council Tax Benefit Regulations" and "the Housing Benefit Regulations".  Regulations 2(a) and (b) and 3(2)(a) and (b).
The Social Security Amendment (Carer's Allowance) Regulations 2002	2002/2497	In Schedule 2 the references to the Housing Benefit (General) Regulations 1987 and the Council Tax Benefit (General) Regulations 1992.
The Social Security (Paternity and Adoption) Amendment Regulations 2002	2002/2689	In regulation 1(2), the definitions of "the Council Tax Benefit Regulations" and "the Housing Benefit Regulations".  Regulations 4 and 5.
The Housing Benefit and Council Tax Benefit (General) Amendment Regulations 2003	2003/48	The whole Regulations.

<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Housing Benefit and Council Tax Benefit (General) Amendment (No. 2) Regulations 2003	2003/308	The whole Regulations.
The Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003	2003/325	Regulation 1(2) and (3).  Regulations 2 to 27.  Regulations 29 and 30.  Schedule 2.
The Housing Benefit (General) Amendment Regulations 2003	2003/363	The whole Regulations.
The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003	2003/455	In regulation 1(12), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  Regulations 4 and 5.  Schedule 3.
The Social Security (Miscellaneous Amendments) Regulations 2003	2003/511	Regulations 4 and 5.
The Community Care, Services for Carers and Children’s Services (Direct Payments) (England) Regulations 2003	2003/762	In Schedule 2, the references to “the Council Tax Benefit Regulations 1992” and “the Housing Benefit Regulations 1987”.
The Income-related Benefits and Jobseeker’s Allowance (Working Tax Credit and Child Tax Credit) (Amendment) Regulations 2003	2003/770	The whole Regulations.
The Social Security (Hospital In-Patients and Miscellaneous Amendments) Regulations 2003	2003/1195	Regulations 1(d) and (e), 4, 5 and 10.
The Housing Benefit and Council Tax Benefit (State Pension Credit) (Abolition of Benefit Periods) Amendment Regulations 2003	2003/1338	Regulation 1(2).  Regulations 2 to 23.

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<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Social Security (Back to Work Bonus and Lone Parent Run-on) (Amendment and Revocation) Regulations 2003	2003/1589	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations”, “the Housing Benefit Regulations” and “the Housing Benefit Supply of Information Regulations”.  Regulations 3, 4 and 7.
The Social Security (Claims and Payments and Miscellaneous Amendments) Regulations 2003	2003/1632	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”  Regulations 3 and 4.
The Social Security Amendment (Students and Income-related Benefits) Regulations 2003	2003/1701	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  Regulations 2(3)(a) and (b) and 3(2)(a) and (b).
The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) (No. 3) Regulations 2003	2003/1731	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  Regulation 3.
The Social Security Amendment (Students and Income-related Benefits) (No.2) Regulations 2003	2003/1914	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  Regulation 2(3)(a) and (b).
The Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2003	2003/2275	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations”, “the Housing Benefit Regulations” and “the



<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
		State Pension Credit Regulations".
		Regulations 2, 3 and 4.
The Social Security (Miscellaneous Amendments) (No.2) Regulations 2003	2003/2279	Regulations 4, 5 and 6.
The Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2003	2003/2399	Regulation 1(2).
		Regulations 2 to 15.
		Schedules 1 and 2.
The Social Security (Incapacity Benefit Work-focused Interviews) Regulations 2003	2003/2439	Regulations 14 and 15.
The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) Regulations 2003	2003/2634	The whole Regulations.
The Housing Benefit and Council Tax Benefit (Abolition of Benefit Periods) Amendment Regulations 2004	2004/14	Regulations 2 to 33.
The Council Tax Benefit (Abolition of Restrictions) Regulations 2004	2004/154	The whole Regulations.
The Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2004	2004/290	The whole Regulations.
The Housing Benefit and Council Tax Benefit (Extended Payments (Severe Disablement Allowance and Incapacity Benefit)) Amendment Regulations 2004	2004/319	The whole Regulations.
The Social Security (Miscellaneous Amendments) Regulations 2004	2004/565	Regulations 1(2)(c), 3, 4, 9 and 10.
The Housing Benefit and Council Tax Benefit (Supply of Information) Amendment Regulations 2004	2004/574	The whole Regulations.
The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) Regulations 2004	2004/781	The whole Regulations.

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<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Social Security (Income-Related Benefits Self-Employment Route Amendment) Regulations 2004	2004/963	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  In regulation 2, the words “each of the council Tax Benefit Regulations, the Housing Benefit Regulations and”.
The Social Security (Miscellaneous Amendments) (No.2) Regulations 2004	2004/1141	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  In regulation 2, the words “each of the Council Tax Benefit Regulations, the Housing Benefit Regulations and”.  Regulation 2(b)(i).  In regulation 2(b)(ii), the words “and the Housing Benefit Regulations”.  Regulations 3(2)(a) and (b), (4)(a) and (b), (6)(a) and (b) and (8)(a), and 4(2)(a) and (b) and (4)(a) and (b).
The Social Security (Habitual Residence) Amendment Regulations 2004	2004/1232	In regulation 1(2), the definitions of “the Council Tax Benefit Regulations” and “the Housing Benefit Regulations”.  Regulations 2 and 6(2)(a).
The Social Security (Students and Income-related Benefits) Amendment Regulations 2004	2004/1708	In regulation 2(2), the definitions of “the Housing Benefit Regulations” and “the Council Tax Benefit Regulations”;

<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
		Regulation 2(3)(a) and (b). Regulation 3 (1), (2) and (6)(a) and (b).
		Regulations 4 and 7.
The Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2004	2004/1748	In paragraph 2 of Schedule 2, the entries relating to the Council Tax Benefit (General) Regulations 1992 and the Housing Benefit (General) Regulations 1987.
The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No.2) Regulations 2004	2004/2303	The whole Regulations.
The Social Security (Miscellaneous Amendments) (No.3) Regulations 2004	2004/2308	In regulation 1(2), the definitions of "the Housing Benefit Regulations" and "the Council Tax Benefit Regulations";
		Regulation 2(3) and (4).
		Regulation 3(2)(b) and (c), (4)(b) and (c), (6) and (7).
		Regulation 4(1), (2) and (6).
The Social Security (Housing Benefit, Council Tax Benefit, State Pension Credit and Miscellaneous Amendments) Regulations 2004	2004/2327	In regulation 1(1)(a), the words "2(10)(a)(iii) and (iv) and (b) and (22), 3(4), (10)(a)(iii) and (iv) and (b) and (22) and".
		Regulations 1(2), 2 and 3.
The Housing Benefit (General) (Amendment) Regulations 2004	2004/2984	The whole Regulations.
The Fire and Rescue Services Act 2004 (Consequential Amendments) (England) Order 2004	2004/3168	Regulations 15 and 27.

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<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004	2004/3368	Regulations 4 and 5.
The Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2005	2005/238	The whole Regulations.
The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) Regulations 2005	2005/273	The whole Regulations.
The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005	2005/337	Regulations 8 and 9.
The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No 2) Regulations 2005	2005/573	The whole Regulations.
The Social Security (Miscellaneous Amendments) Regulations 2005	2005/574	In regulation 1(2), the definitions of “the Housing Benefit Regulations” and “the Council Tax Benefit Regulations”.  In regulation 2(1), the words “the Housing Benefit Regulations and the Council Tax Benefit Regulations,”  Regulation 2(3), (4) and (8)(b) and (c).  Regulations 4 and 5.
The Housing Benefit (General) (Amendment) Regulations 2005	2005/1719	The whole Regulations.
The Social Security (Students and Income-related Benefits) Amendment Regulations 2005	2005/1807	In regulation 1(2), the definitions of “the Housing Benefit Regulations” and “the Council Tax Benefit Regulations”.  Regulation 2(4)(a) and (b) and (5).
The Fire (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005	2005/2060 (S. 7)	Schedule 3, paragraphs 6 and 7.

<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005	2005/2078 (S. 9)	Schedule 2, paragraphs 4 and 14.
The Income-related Benefits (Amendment) Regulations 2005	2005/2183	Regulations 3 and 4.
The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2005	2005/2465	Regulations 4(5) and (6) and 5(5) and (6).
The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No.3) Regulations 2005	2005/2502	Regulations 2(6) and 3(6) and (10).
The Social Security (Care Homes and Independent Hospitals) Regulations 2005	2005/2687	Regulations 4 and 5  Schedules 3 and 4.
The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005	2005/2877	In Schedule 3, paragraphs 15, 16, 17, 21 and 22.
The Social Security (Civil Partnership) (Consequential Amendments) Regulations 2005	2005/2878	Regulations 6 and 7.
The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No.4) Regulations 2005	2005/2894	In regulation 1(2), the definitions of “the Housing Benefit Regulations” and “the Council Tax Benefit Regulations”.  Regulations 2 and 3.
The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No.5) Regulations 2005	2005/3294	The whole Regulations.
The Income-related Benefits (Amendment) (No.2) Regulations 2005	2005/3391	Regulations 3 and 4.

**SCHEDULE 2**

Regulation 3

Consequential amendments

[Paragraph 1 makes various amendments to S.I. 1987/1967.]

[Paragraph 2 makes various amendments to S.I. 1987/1968.]

[Paragraph 3 makes various amendments to legislation not reproduced in these volumes.]

**HOUSING BENEFIT AND COUNCIL TAX BENEFIT (CONSEQUENTIAL PROVISIONS) REGULATIONS 2006**

[Paragraph 4 makes various amendments to S.I. 1992/1815.]

[Paragraphs 5 and 6 makes various amendments to legislation not reproduced in these volumes.]

[Paragraph 7 amends S.I.'s 1993/1065, 1993/1621, 1993/1949, 1995/1780 and 1996/1623.]

[Paragraph 8 makes various amendments to S.I. 1996/207.]

[Paragraph 9 makes various amendments to S.I. 1996/2745.]

[Paragraph 10 makes various amendments to legislation not reproduced in these volumes.]

[Paragraph 11 makes various amendments to S.I. 1997/1984.]

[Paragraph 12 makes various amendments to S.I. 1997/1995.]

[Paragraph 13 makes various amendments to S.I. 1998/562.]

[Paragraph 14 amends S.I.'s 1998/217, 1999/779, 2001/970 and 2001/2915.]

[Paragraph 15 makes various amendments to S.I. 1999/1495.]

[Paragraph 16 makes various amendments to legislation not reproduced in these volumes.]

[Paragraph 17 makes various amendments to S.I. 2001/1002.]

[Paragraph 18 makes various amendments to S.I. 2001/1167.]

[Paragraph 19 makes various amendments to S.I. 2001/3252.]

[Paragraph 20 makes various amendments to S.I. 2001/4022.]

[Paragraph 21 makes various amendments to S.I. 2002/1703.]

[Paragraphs 22 – 26 makes various amendments to legislation not reproduced in these volumes.]

[Paragraph 27 makes various amendments to S.I. 2005/2502.]

[Sub-para. 28 of para. 27 revoked by S.I. 2006/588.]

[Paragraph 28 makes various amendments to S.I. 2005/2465.]

[Paragraph 29 makes various amendments to S.I. 2005/2904.]

[Paragraph 30 makes various amendments to S.I. 2005/3360.]

[Paragraph 31 makes various amendments to legislation not reproduced in these volumes.]

**SCHEDULE 3**

Regulation 6(1)

**Transitional and Savings Provisions**

**1.**—(1) Where a change of circumstances occurs as a result of the payment of arrears of any income (and for the avoidance of doubt income includes any benefit within the meaning of the Act) which affects a determination or decision in respect of entitlement to, or the amount of, housing benefit or council tax benefit before 6th March 1995, the provisions specified in paragraph (2) shall apply subject to the omissions specified in relation to that provision.

(2) The provisions specified in this paragraph (which all relate to the date on which changes of circumstances are to take effect) are—

- (a) regulations 79 of the Housing Benefit Regulations which shall apply as if paragraph (7) was omitted;

- (b) regulation 59 of the Housing Benefit (State Pension Credit) Regulations which shall apply as if paragraph (7) was omitted;
- (c) regulation 67 of the Council Tax Benefit Regulations which shall apply as if paragraph (9) was omitted;
- (d) regulation 50 of the Council Tax Benefit (State Pension Credit) Regulations which shall apply as if paragraph (9) was omitted

**Persons incapable of work**

2.—(1) Where, on 12th April 1995, the disability premium was applicable to a claimant by virtue of paragraph 12(1)(b) of Schedule 2 to the 1987 Regulations or paragraph 13(1)(b) of Schedule 1 to the 1992 Regulations, as in force on that date, the disability premium shall continue to be applicable to that claimant from 13th April 1995 and for so long as he is incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work).

(2) Where, on 12th April 1995, the disability premium was applicable to a claimant and in the period from 13th April 1995 to 1st October 1995 paragraph (1) either did not apply or ceased to apply in his case, if—

- (a) for the period for which paragraph (1) did not apply or ceased to apply, the claimant was incapable of work or was treated as incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (the period of incapacity); and
- (b) any break in the period of incapacity did not exceed a period of 56 continuous days,

with effect from 2nd October 1995 for so long as he is incapable of work or is treated as incapable of work, the disability premium shall be applicable in his case.

(3) Paragraphs (1) and (2) shall not apply to a claimant who ceases to be incapable of work or ceases to be treated as incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work) for a period of more than 56 continuous days.

(4) Where, in any period immediately preceding 13th April 1995, the circumstances mentioned in paragraph 12(6) of Schedule 2 to the 1987 Regulations, or paragraph 13(6) of Schedule 1 to the 1992 Regulations, as in force on 12th April 1995, applied to a claimant to whom the disability premium was not applicable, that claimant shall be treated for the purposes of—

- (a) regulations 28(8)(c) and 56(2)(e) of, and paragraph 13(1)(b) of Schedule 3 to, the Housing Benefit Regulations;
- (b) regulations 18(11)(e) and 45(3)(e) of, and paragraph 13(1)(b) of Schedule 1 to, the Council Tax Benefit Regulations; or as the case may be,

as if he had been incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work) throughout that period.

3.—(1) Where the higher pensioner premium was applicable to a claimant on, or at any time during the 56 days immediately preceding, 12th April 1995 by virtue of ►paragraph 12(1)(a)(ii) of Schedule 2 to the 1987 Regulations◀(a), or paragraph 13(1)(a)(ii) of Schedule 1 to the 1992 Regulations(b), as in force on that date, paragraph 13 of each of the Schedules specified in sub-paragraph (2) shall, in so far as it applies to those claimants, apply subject to the amendments specified in sub-paragraph (3).

<sup>1</sup>Words in para. 3(1) of Sch. 3 substituted by reg. 7(2) of S.I. 2008/1042 as from 19.5.08.

(2) Those Schedules (which all relate to the applicable amount) are—

- (a) Schedule 3 to the Housing Benefit Regulations; and
- (b) Schedule 1 to the Council Tax Benefit Regulations.

(3) The amendments specified in this sub-paragraph are—

- (a) in sub-paragraph (1)(a)(i), for the words “long-term incapacity benefit”, substitute “an invalidity pension” and for the words “in the case of long-term incapacity benefit”, substitute “in the case of invalidity pension”;

(a) S.I. 1987/1971.

(b) S.I. 1992/1814.

- (b) in sub-paragraph (1)(a)(ii) for the words “long-term incapacity benefit” substitute “invalidity pension”;
- (c) for head (b) of sub-paragraph (1), substitute—
  - “(b) the circumstances of the claimant fall, and have fallen, in respect of a continuous period of not less than 28 weeks, within sub-paragraph (6) or, if he was in Northern Ireland for the whole or part of that period, within one or more comparable Northern Irish provisions.”;
- (d) in sub-paragraph (3), for the words “or to be incapable of work”, substitute “for the purposes of the provisions specified in that provision”;
- (e) for sub-paragraphs (6) and (7), substitute—
  - “(6) For the purposes of sub-paragraph (1)(b) the circumstances of a claimant fall within this sub-paragraph if—
    - (a) he provides evidence of incapacity in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976<sup>(a)</sup> (evidence of incapacity for work) in support of a claim for sickness benefit, invalidity pension or severe disablement allowance within the meaning of sections 31, 33 or 68 of the Act, provided that an adjudication officer has not determined he is not incapable of work, or
    - (b) he is in receipt of statutory sick pay within the meaning of Part 11 of the Act.”.

<sup>1</sup>Paras. 4 & 5 of Sch. 3 substituted by reg. 6(2) of S.I. 2007/2870. See reg. 1 to this S.I. for when to apply.

### <sup>1</sup>Eligible rent

**4.—(1)** Subject to the following provisions of this paragraph, the eligible rent of a person—

- (a) who was entitled to housing benefit on both the first date and the second date; or
  - (b) who is liable to make payments in respect of a dwelling occupied by him as his home, which is exempt accommodation, shall be determined in accordance with—
    - (i) regulations 12 (rent) and 13 (maximum rent) of the Housing Benefit Regulations, or, as the case may be,
    - (ii) regulations 12 (rent) and 13 (maximum rent) of the Housing Benefit (State Pension Credit) Regulations,
- as set out in paragraph 5.

**(2)** Sub-paragraph (1)(a) shall not apply to—

- (a) any determination of a person's eligible rent in a case where a relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C of the Housing Benefit Regulations or, as the case may be, regulation 13C of the Housing Benefit (State Pension Credit) Regulations;

<sup>2</sup>(aa) a determination of eligible rent in a case where a person's landlord is a registered housing association within the meaning of regulation 2 of the Housing Benefit Regulations or any case where housing benefit is payable in the form of a rent rebate unless—

- (i) the claimant or the claimant's partner has attained the qualifying age for state pension credit, or both have attained that age;
- (ii) a relevant authority has, on or before 31st March 2013, reduced that person's eligible rent in accordance with regulation 13(3) of the Housing Benefit Regulations as set out in paragraph 5 of this Schedule; or
- (iii) a relevant authority has, on or before 31st March 2013, made a determination that the person's dwelling is larger than is reasonably required or that the person's rent is unreasonably high in accordance with regulation 13(3) of the Housing Benefit Regulations as set out in paragraph 5 of this Schedule, but has not, in accordance with paragraph (4), (5) or (7) of that regulation, reduced that person's eligible rent; or

(b) any subsequent determination of his eligible rent.

(a) S.I. 1976/615; relevant amending instruments are S.I. 1982/699, 1985/987 and 1987/409.

<sup>2</sup>Word in para. 4(2)(a) omitted & sub-para. (2)(aa) inserted by reg. 2(2)(a) & (b) of S.I. 2014/212 as from 3.3.14.



- (3) Sub-paragraph (1)(a) shall only apply in a case where—
- (a) either—
    - (i) the dwelling occupied as his home by a person to whom sub-paragraph (1)(a) refers is the same on both the first date and the second date; or
    - (ii) the dwelling so occupied was not the same by reason only that the change was caused by a fire, flood, explosion or natural catastrophe rendering the dwelling occupied as the home on the first date uninhabitable; and
  - (b) the person—
    - (i) was continuously entitled to and in receipt of housing benefit between the first date and the second date in respect of the dwelling to which head (a) above applies; or
    - (ii) was not entitled to or receiving housing benefit for a period not exceeding 4 weeks, but was in continuous occupation of the dwelling to which head (a) above refers between the first date and the second date; or
    - (iii) is a person to whom sub-paragraph (4) applies.
- (4) This sub-paragraph applies in the case of a person (“the claimant”) who becomes, or whose partner becomes, a welfare to work beneficiary, and—
- (a) the claimant ceases to be entitled to housing benefit in respect of his residence in the dwelling he occupies as his home;
  - (b) the claimant subsequently becomes re-entitled to housing benefit—
    - (i) in respect of the same dwelling, or
    - (ii) in respect of a different dwelling in a case to which sub-paragraph (3)(a)(ii) applies; and
  - (c) the first day of that entitlement is within 52 weeks of the claimant or his partner becoming a welfare to work beneficiary.
- (5) A person shall be deemed to fulfil the requirements of sub-paragraphs (1)(a) and (3), where—
- (a) he occupies the dwelling which he occupied on the relevant date;
  - (b) this paragraph applied to the previous beneficiary on the relevant date; and
  - (c) the requirements of sub-paragraphs (6) and (7) are satisfied in his case.
- (6) The requirements of this sub-paragraph are that the person was, on the relevant date—
- (a) the partner of the previous beneficiary; or
  - (b) in a case where the previous beneficiary died on the relevant date, was a person to whom sub-paragraph (10)(b), (c) or (d) of regulation 13 (restrictions on unreasonable payments), as specified in paragraph 5, applied and for the purposes of this sub-paragraph “claimant” in that paragraph of that regulation shall be taken to be a reference to the previous beneficiary.
- (7) The requirements of this sub-paragraph are that a claim for housing benefit is made within 4 weeks of the relevant date and where such a claim is made it shall be treated as having been made on the relevant date.
- (8) The eligible rent of a person to whom—
- (a) regulation 10A of and Schedule A1 to the Housing Benefit Regulations (entitlement to housing benefit by refugees), or, as the case may be,
  - (b) regulation 10A of and Schedule A1 to the Housing Benefit (State Pension Credit) Regulations (entitlement to housing benefit by refugees)
- apply, shall be determined in accordance with—
- (i) regulations 12 (rent) and 13 (maximum rent) of the Housing Benefit Regulations, or, as the case may be,
  - (ii) regulations 12 (rent) and 13 (maximum rent) of the Housing Benefit (State Pension Credit) Regulations,
- as set out in paragraph 5.
- (9) Sub-paragraphs (1) to (8) above shall continue to have effect in the case of a claimant who has ceased to be a welfare to work beneficiary or whose partner has

ceased to be such a beneficiary where the claimant is entitled to housing benefit at the end of the 52 week period to which sub-paragraph (4)(c) refers.

(10) In this paragraph—

“the first date” means 1st January 1996, except in a case to which sub-paragraph (5) applies, when it shall be the relevant date;

“the second date” means any day after the first date for which a claimant’s entitlement to housing benefit is to be determined;

“eligible rent” means as the case may require, an eligible rent determined in accordance with—

(a) regulations 12B (eligible rent), <sup>1</sup>12BA (eligible rent and maximum rent (social sector))<sup>1</sup> 12C (eligible rent and maximum rent), 12D (eligible rent and maximum rent (LHA)) or any of regulations 12E to 12K (transitional protection for pathfinder cases); or

(b) regulations 12 (rent) and 13 (restrictions on unreasonable payments) as set out in paragraph 5 of Schedule 3 to the Consequential Provisions Regulations in a case to which paragraph 4 of that Schedule applies;

“exempt accommodation” means accommodation which is—

(a) a resettlement place provided by persons to whom the Secretary of State has given assistance by way of grant pursuant to section 30 of the Jobseekers Act 1995<sup>(a)</sup> (grants for resettlement places); and for this purpose “resettlement place” shall have the same meaning as it has in that section; or

(b) provided by a non-metropolitan county council in England within the meaning of section 1 of the Local Government Act 1972<sup>(b)</sup>, a housing association, a registered charity or voluntary organisation where that body or a person acting on its behalf also provides the claimant with care, support or supervision;

“imprisoned” means detained in custody pending sentence upon conviction or under a sentence imposed by a court;

“previous beneficiary” means a person—

(a) who died, left the dwelling or was imprisoned, as the case may be;

(b) who was on that date in receipt of housing benefit or was on that date within 52 weeks of having become a welfare to work beneficiary; and

(c) to whom this regulation applied on that date;

and, in this paragraph, a reference to a person occupying a dwelling as his home shall be taken to include a person who is treated as occupying a dwelling as his home by virtue of regulation 7 of the Housing Benefit Regulations or, as the case may be, regulation 7 of the Housing Benefit (State Pension Credit) Regulations;

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

(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;

“relevant authority” means an authority administering housing benefit;

“the relevant date” means the date—

(a) of the death of a previous beneficiary;

(b) on which a previous beneficiary who was the claimant’s partner left the dwelling so that he and the claimant ceased to be living together as husband and wife; or

(c) on which a previous beneficiary, other than a beneficiary to whom regulation 7(13) of the Housing Benefit Regulations or, as the case may be, regulation 7(13) of the Housing Benefit (State Pension Credit) Regulations applied, was imprisoned, but only where on that date he was the partner of the claimant,

as the case may be;

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

<sup>1</sup>Words in defn. of “eligible rent” inserted by reg. 2(3) of S.I. 2014/212 as from 3.3.14.

(a) 1995 c. 18.

(b) 1972 c. 70.

(c) 2002 c. 16.

"welfare to work beneficiary" means a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995(a) applies.

5.—(1) For the purposes of paragraph 4(1), regulation 12 of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations is as follows—

**"Rent**

12.—(1) Subject to the following provision of this regulation, the payments in respect of which housing benefit is payable in the form of a rent rebate or allowance are the following periodical payments which a person is liable to make in respect of the dwelling which he occupies as his home—

- (a) payments of, or by way of, rent;
- (b) payments in respect of a licence or permission to occupy the dwelling;
- (c) payments by way of mesne profits or, in Scotland, violent profits;
- (d) payments in respect of, or in consequence of, use and occupation of the dwelling;
- (e) payments of, or by way of, service charges payment of which is a condition on which the right to occupy the dwelling depends;
- (f) mooring charges payable for a houseboat;
- (g) where the home is a caravan or a mobile home, payments in respect of the site on which it stands;
- (h) any contribution payable by a person resident in an almshouse provided by a housing association which is either a charity of which particulars are entered in the register of charities established under section 3 of the Charities Act 1993(b) (register of charities) or an exempt charity within the meaning of that Act, which is a contribution towards the cost of maintaining that association's almshouses and essential services in them;
- (i) payments under a rental purchase agreement, that is to say an agreement for the purchase of a dwelling which is a building or part of one under which the whole or part of the purchase price is to be paid in more than one instalment and the completion of the purchase is deferred until the whole or a specified part of the purchase price has been paid; and
- (j) where, in Scotland, the dwelling is situated on or pertains to a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1993(c), the payment in respect of the croft land.

(2) A rent rebate or, as the case may be, a rent allowance shall not be payable in respect of the following periodical payments—

- (a) payments under a long tenancy except a shared ownership tenancy granted by a housing association or a housing authority;
- (b) payments under a co-ownership scheme;
- (c) payments by an owner;
- (d) payments under a hire purchase, credit sale or conditional sale agreement except to the extent the conditional sale agreement is in respect of land; and
- (e) payments by a Crown tenant.

(3) Subject to any apportionment in accordance with paragraphs (4) and (5) and to regulations 13 and 13ZA (restrictions on unreasonable payments and rent increases), the amount of a person's eligible rent shall be the aggregate of such payments specified in paragraph (1) as he is liable to pay less—

- (a) except where he is separately liable for charges for water, sewerage or allied environmental services, an amount determined in accordance with paragraph (6);

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(a) S.I. 1995/311.

(b) 1993 c. 10.

(c) 1993 c. 44, as amended by Part 2 section 21(b) of the Crofting Reform etc. Act 2007 (asp.7).

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- (b) where payments include service charges which are wholly or partly ineligible, an amount in respect of the ineligible charges determined in accordance with Schedule 1; and
- (c) where he is liable to make payments in respect of any service charges to which paragraph (1)(e) does not apply, but to which paragraph 3(2) of Schedule 1 (unreasonably low service charges) applies in the particular circumstances, an amount in respect of such charges determined in accordance with paragraph 3(2) of Schedule 1.

(4) Where the payments specified in paragraph (1) are payable in respect of accommodation which consists partly of residential accommodation and partly of other accommodation, only such proportion thereof as is referable to the residential accommodation shall count as eligible rent for the purposes of these Regulations.

(5) Where more than one person is liable to make payments in respect of a dwelling, the payments specified in paragraph (1) shall be apportioned for the purpose of calculating the eligible rent for each such person having regard to all the circumstances, in particular, the number of such persons and the proportion of rent paid by each such person.

(6) The amount of the deduction referred to in paragraph (3) shall be—

- (a) except in a case to which sub-paragraph (c) applies, if the dwelling occupied by the claimant is a self-contained unit, the amount of the charges;
- (b) in any other case except one to which sub-paragraph (c) applies, the proportion of those charges in respect of the self-contained unit, which is obtained by dividing the area of the dwelling occupied by the claimant by the area of the self-contained unit of which it forms part; or
- (c) where the charges vary in accordance with the amount of water actually used, the amount which the appropriate authority considers to be fairly attributable to water and sewerage services, having regard to the actual or estimated consumption of the claimant.

(7) In this regulation and Schedule 1—

"service charges" means periodical payments for services, whether or not under the same agreement as that under which the dwelling is occupied, or whether or not such a charge is specified as separate from or separately identified within other payments made by the occupier in respect of the dwelling; and

"services" means services performed or facilities (including the use of furniture) provided for, or rights made available to, the occupier of a dwelling."

(2) For the purposes of paragraph 4(1), regulation 13 of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations is as follows—

**"Restrictions on unreasonable payments**

**13.**—(1) Where a rent is registered in respect of a dwelling under Part 4 or 5 of the Rent Act 1977(a) or Part 4 or 7 of the Rent (Scotland) Act 1984(b) and the rent recoverable from a claimant is limited to the rent so registered, his eligible rent determined in accordance with regulation 12 (rent) shall not exceed the rent so registered.

(2) Where a rent has been determined by a rent assessment committee or a private rented housing committee in respect of a dwelling under Part 1 of the Housing Act 1988(c) or Part 2 of the Housing (Scotland) Act 1988(d), the claimant's eligible rent determined in accordance with regulation 12 shall not exceed the rent determined by the committee during the twelve months beginning with the first day on which that determination had effect.

(3) The relevant authority shall consider—

- (a) whether by reference to a determination or re-determination made by a rent officer in exercise of a function conferred on him by an order under

(a) 1977 c. 42.

(b) 1984 c. 58.

(c) 1988 c. 50.

(d) 1988 c. 43. Amended by section 192(1) of and paragraph 16 of Schedule 6 to the Housing (Scotland) Act 2006 (asp1).

section 122 of the Housing Act 1996<sup>(a)</sup> or otherwise, whether a claimant occupies a dwelling larger than is reasonably required by him and others who also occupy that dwelling (including any non-dependants of his and any person paying rent to him) having regard in particular to suitable alternative accommodation occupied by a household of the same size; or

- (b) whether by reference to a determination or re-determination made by a rent officer in exercise of a function conferred on him by an order under section 122 of the Housing Act 1996 or otherwise, whether the rent payable for his dwelling is unreasonably high by comparison with the rent payable in respect of suitable alternative accommodation elsewhere,

and, where it appears to the authority that the dwelling is larger than is reasonably required or that the rent is unreasonably high, the authority shall, subject to paragraphs (4) to (7), treat the claimant's eligible rent, as reduced by such amount as it considers appropriate having regard in particular to the cost of suitable alternative accommodation elsewhere and the claimant's maximum housing benefit shall be calculated by reference to the eligible rent as so reduced.

(4) If any person to whom paragraph (10) applies—

- <sup>1</sup>(a) has attained the qualifying age for state pension credit; or◀
- <sup>2</sup>(b) is incapable of work for the purposes of Part 12A of the Act; or◀
- (c) is treated as capable of work in accordance with regulations made under section 171E of the Act<sup>(b)</sup>; or
- <sup>3</sup>(ca) has limited capability for work <sup>4</sup>within the meaning of section 1(4)◀ of the Welfare Reform Act 2007; or
- (cb) is treated as not having limited capability for work in accordance with regulations made under paragraph 1(a) of Schedule 2 to that Act (employment and support allowance: supplementary provisions); or◀
- (d) is a member of the same household as a child or young person for whom he or his partner is responsible,

<sup>1</sup>In para. 5(2), “inserted reg. 13(4)(a)” substituted by reg. 41(2) of S.I. 2009/1488 as from 6.4.10.

<sup>2</sup>Words in para. 5(2) (inserted as (4)(b)) substituted by reg. 7(3) of S.I. 2008/1042 as from 19.5.08.

<sup>3</sup>Sub-para. (ca) & (cb) (inserted as (4)(b)) inserted by reg. 2 of S.I. 2008/1082 as from 27.10.08.

<sup>4</sup>Words in sub-para. (ca)-(inserted as (4)(b)) substituted by reg. 25 of S.I. 2008/2428 as from 27.10.08.

no deduction shall be made under paragraph (3) unless suitable cheaper alternative accommodation is available and the authority considers that, taking into account the relevant factors, it is reasonable to expect the claimant to move from his present accommodation.

(5) No deduction shall be made under paragraph (3) for a period of 12 months from the date of death of any person to whom paragraph (10) applied or, had a claim been made, would have applied, if the dwelling which the claimant occupies is the same as that occupied by him at that date except where the deduction began before the death occurred.

(6) For the purposes of paragraph (5), a claimant shall be treated as occupying the dwelling if paragraph (13) of regulation 7 (circumstances in which a person is to be treated as occupying a dwelling) is satisfied and for that purpose sub-paragraph (b) of that paragraph shall be treated as if it were omitted.

(7) Without prejudice to the operation of paragraph (4), but subject to paragraph (8), where the relevant authority is satisfied that a person to whom paragraph (10) applies was able to meet the financial commitments for his dwelling when they were entered into, no deduction shall be made under paragraph (3) during the first 13 benefit weeks of the claimant's award of housing benefit.

(8) Paragraph (7) shall not apply where a claimant was previously entitled to benefit in respect of an award of housing benefit which fell wholly or partly less than 52 weeks before the commencement of his current award of housing benefit.

(9) For the purposes of this regulation—

- (a) in deciding what is suitable alternative accommodation, the relevant authority shall take account of the nature of the alternative accommodation and the facilities provided having regard to the age and state of health of all the persons to whom paragraph (10) applies and, in particular, where a claimant's present dwelling is occupied with security of tenure, accommodation shall not be treated as suitable alternative accommodation unless that accommodation will be occupied on terms

(a) 1996 c. 52.

(b) Section 171E was inserted by section 6 of the Social Security (Incapacity for Work) Act 1994 (c. 18).

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which will afford security of tenure reasonably equivalent to that presently enjoyed by the claimant; and

- (b) the relevant factors in paragraph (4) are the effects of a move to alternative accommodation on—
  - (i) the claimant's prospects of retaining his employment; and
  - (ii) the education of any child or young person referred to in paragraph (4)(d) if such a move were to result in a change of school.

(10) This paragraph applies to the following persons—

- (a) the claimant;
- (b) any member of his family;
- (c) if the claimant is a member of a polygamous marriage, any partners of his and any child or young person for whom he or a partner is responsible and who is a member of the same household;
- (d) subject to paragraph (11), any relative of the claimant or his partner who occupies the same dwelling as the claimant, whether or not they reside with him.

(11) Paragraph (10)(d) shall only apply to a relative who has no separate right of occupation of the dwelling which would enable him to continue to occupy it even if the claimant ceased his occupation of it."

(3) For the purposes of regulation 12(3) of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations, as inserted by paragraph (1) above, regulation 13ZA of both those Regulations is as follows—

**"Restrictions on rent increases**

**13ZA.**—(1) Subject to paragraph (2), where a claimant's eligible rent is increased during an award of housing benefit, the relevant authority shall, if it considers, whether by reference to a determination or re-determination made by a rent officer in exercise of a function conferred on him by an order under section 122 of the Housing Act 1996, or otherwise, either—

- (a) that the increase is unreasonably high having regard in particular to the level of increases for suitable alternative accommodation, or
- (b) in the case of an increase which takes place less than 12 months after the date of the previous increase, that the increase is unreasonable having regard to the length of time since that previous increase,

treat the eligible rent as reduced either by the full amount of the increase or, if it considers that a lesser increase was reasonable in all the circumstances, by the difference between the full amount of the increase and the increase that is reasonable having regard in particular to the level of increases for suitable alternative accommodation, and the claimant's maximum housing benefit shall be calculated by reference to the eligible rent as so reduced.

(2) No deduction shall be made under this regulation for a period of 12 months from the date of death of any person to whom paragraph (1) of regulation 13 (restrictions on unreasonable payments) applied or, had a claim been made, would have applied, if the dwelling which the claimant occupies is the same as that occupied by him at that date except where the deduction began before the death occurred.

(3) For the purposes of paragraph (2), a claimant shall be treated as occupying the dwelling if paragraph (13) of regulation 7 (circumstances in which a person is to be treated as occupying a dwelling) is satisfied and for that purpose subparagraph (b) of that paragraph shall be treated as if it were omitted."◀

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2007/2870 at page 8.3767 for details.*

Eligible rent

4.—(1) Subject to the following provisions of this paragraph, the eligible rent of a person—

- (a) who was entitled to housing benefit on both the first date and the second date; or

- (b) who is liable to make payments in respect of a dwelling occupied by him as his home, which is exempt accommodation,  
shall be determined in accordance with—
  - (i) regulations 12 (rent) and 13 (maximum rent) of the Housing Benefit Regulations, or, as the case may be,
  - (ii) regulations 12 (rent) and 13 (maximum rent) of the Housing Benefit (State Pension Credit) Regulations,  
as set out in paragraph 5.
- (2) Sub-paragraph (1)(a) shall not apply to—
  - (a) any determination of a person's eligible rent in a case where a pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 13A of the Housing Benefit Regulations(a) or, as the case may be, regulation 13A of the Housing Benefit (State Pension Credit) Regulations(b); or
  - (b) any subsequent determination of his eligible rent.
- (3) Sub-paragraph (1)(a) shall only apply in a case where—
  - (a) either—
    - (i) the dwelling occupied as his home by a person to whom sub-paragraph (1)(a) refers is the same on both the first date and the second date; or
    - (ii) the dwelling so occupied was not the same by reason only that the change was caused by a fire, flood, explosion or natural catastrophe rendering the dwelling occupied as the home on the first date uninhabitable; and
  - (b) the person—
    - (i) was continuously entitled to and in receipt of housing benefit between the first date and the second date in respect of the dwelling to which head (a) above applies; or
    - (ii) was not entitled to or receiving housing benefit for a period not exceeding 4 weeks, but was in continuous occupation of the dwelling to which head (a) above refers between the first date and the second date; or
    - (iii) is a person to whom sub-paragraph (4) applies.
- (4) This sub-paragraph applies in the case of a person ("the claimant") who becomes, or whose partner becomes, a welfare to work beneficiary, and—
  - (a) the claimant ceases to be entitled to housing benefit in respect of his residence in the dwelling he occupies as his home;
  - (b) the claimant subsequently becomes re-entitled to housing benefit—
    - (i) in respect of the same dwelling, or
    - (ii) in respect of a different dwelling in a case to which sub-paragraph (3)(a)(ii) applies; and
  - (c) the first day of that entitlement is within 52 weeks of the claimant or his partner becoming a welfare to work beneficiary.
- (5) A person shall be deemed to fulfil the requirements of sub-paragraphs (1)(a) and (3), where—
  - (a) he occupies the dwelling which he occupied on the relevant date;
  - (b) this paragraph applied to the previous beneficiary on the relevant date, and
  - (c) the requirements of sub-paragraphs (6) and (7) are satisfied in his case.
- (6) The requirements of this sub-paragraph are that the person was, on the relevant date—

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(a) See Schedule 10, paragraph 7.

(b) See Schedule 9, paragraph 7.

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- (a) the partner of the previous beneficiary; or
- (b) in a case where the previous beneficiary died on the relevant date, was a person to whom paragraph (10)(b), (c) or (d) of regulation 13 (restrictions on unreasonable rents), as specified in paragraph 5, applied and for the purposes of this sub-paragraph "claimant" in that paragraph of that regulation shall be taken to be a reference to the previous beneficiary.

(7) The requirements of this sub-paragraph are that a claim for housing benefit is made within 4 weeks of the relevant date and where such a claim is made it shall be treated as having been made on the relevant date.

(8) The eligible rent of a person to whom—

- (a) regulation 10A of and Schedule A1 to the Housing Benefit Regulations(a) (entitlement to housing benefit by refugees), or, as the case may be,
- (b) regulation 10A of and Schedule A1 to the Housing Benefit (State Pension Credit) Regulations (entitlement to housing benefit by refugees)

apply, shall be determined in accordance with—

- (i) regulations 12 (rent) and 13 (maximum rent) of the Housing Benefit Regulations, or, as the case may be,
- (ii) regulations 12 (rent) and 13 (maximum rent) of the Housing Benefit (State Pension Credit) Regulations,

as set out in paragraph 5.

(9) Sub-paragraphs (1) to (8) above shall continue to have effect in the case of a claimant who has ceased to be a welfare to work beneficiary or whose partner has ceased to be such a beneficiary where the claimant is entitled to housing benefit at the end of the 52 week period to which sub-paragraph (4)(c) refers.

(10) In this paragraph—

"the first date" means 1st January 1996, except in a case to which sub-paragraph (5) applies, when it shall be the relevant date;

"the second date" means any day after the first date for which a claimant's entitlement to housing benefit is to be determined;

"exempt accommodation" means accommodation which is—

- (a) a resettlement place provided by persons to whom the Secretary of State has given assistance by way of grant pursuant to section 30 of the Jobseekers Act 1995(b) (grants for resettlement places); and for this purpose "resettlement place" shall have the same meaning as it has in that section; or
- (b) provided by a non-metropolitan county council in England within the meaning of section 1 of the Local Government Act 1972(c), a housing association, a registered charity or voluntary organisation where that body or a person acting on its behalf also provides the claimant with care, support or supervision;

"imprisoned" means detained in custody pending sentence upon conviction or under a sentence imposed by a court;

"previous beneficiary" means a person—

- (a) who died, left the dwelling or was imprisoned, as the case may be;
- (b) who was on that date in receipt of housing benefit or was on that date within 52 weeks of having become a welfare to work beneficiary; and
- (c) to whom this regulation applied on that date;

and, in this paragraph, a reference to a person occupying a dwelling as his home shall be taken to include a person who is treated as occupying a dwelling as his home by virtue of regulation 7 of the Housing Benefit Regulations or, as the

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(a) See regulation 7 and Schedule 4, paragraph 2 for regulation 10A and Schedule A1 (claims by refugees).

(b) 1995 c. 18.

(c) 1972 c. 70.



case may be, regulation 7 of the Housing Benefit (State Pension Credit) Regulations;

“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;

“the relevant date” means the date–

- (a) of the death of a previous beneficiary;
- (b) on which a previous beneficiary who was the claimant’s partner left the dwelling so that he and the claimant ceased to be living together as husband and wife; or
- (c) on which a previous beneficiary, other than a beneficiary to whom regulation 7(13) of the Housing Benefit Regulations or, as the case may be, regulation 7(13) of the Housing Benefit (State Pension Credit) Regulations applied, was imprisoned, but only where on that date he was the partner of the claimant,

as the case may be;

“state pension credit” means state pension credit under the State Pension Credit Act 2002(b);

“welfare to work beneficiary” means a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995(c) applies.

5.—(1) For the purposes of paragraph 4(1), regulation 12 of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations is as follows–

“Rent

12.—(1) Subject to the following provision of this regulation, the payments in respect of which housing benefit is payable in the form of a rent rebate or allowance are the following periodical payments which a person is liable to make in respect of the dwelling which he occupies as his home–

- (a) payments of, or by way of, rent;
- (b) payments in respect of a licence or permission to occupy the dwelling;
- (c) payments by way of mesne profits or, in Scotland, violent profits;
- (d) payments in respect of, or in consequence of, use and occupation of the dwelling;
- (e) payments of, or by way of, service charges payment of which is a condition on which the right to occupy the dwelling depends;
- (f) mooring charges payable for a houseboat;
- (g) where the home is a caravan or a mobile home, payments in respect of the site on which it stands;
- (h) any contribution payable by a person resident in an almshouse provided by a housing association which is either a charity of which particulars are entered in the register of charities established under section 3 of the Charities Act 1993(d) (register of charities) or an exempt charity within the meaning of that Act, which is a contribution towards the cost of maintaining that association’s almshouses and essential services in them;
- (i) payments under a rental purchase agreement, that is to say an agreement for the purchase of a dwelling which is a building or part of one under which the whole or part of the purchase price is to be paid in more than one instalment and the completion of the purchase is deferred until the whole or a specified part of the purchase price has been paid; and

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(a) 2002 c. 16.  
(b) 2002 c. 16.  
(c) S.I. 1995/311.  
(d) 1993 c. 10.

- (j) where, in Scotland, the dwelling is situated on or pertains to a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1993(a), the payment in respect of the croft land.

(2) A rent rebate or, as the case may be, a rent allowance shall not be payable in respect of the following periodical payments—

- (a) payments under a long tenancy except a shared ownership tenancy granted by a housing association or a housing authority;
- (b) payments under a co-ownership scheme;
- (c) payments by an owner;
- (d) payments under a hire purchase, credit sale or conditional sale agreement except to the extent the conditional sale agreement is in respect of land; and
- (e) payments by a Crown tenant.

(3) Subject to any apportionment in accordance with paragraphs (4) and (5) and to regulations 13 and 13ZA (restrictions on unreasonable payments and rent increases), the amount of a person's eligible rent shall be the aggregate of such payments specified in paragraph (1) as he is liable to pay less—

- (a) except where he is separately liable for charges for water, sewerage or allied environmental services, an amount determined in accordance with paragraph (6);
- (b) where payments include service charges which are wholly or partly ineligible, an amount in respect of the ineligible charges determined in accordance with Schedule 1; and
- (c) where he is liable to make payments in respect of any service charges to which paragraph (1)(e) does not apply, but to which paragraph 3(2) of Schedule 1 (unreasonably low service charges) applies in the particular circumstances, an amount in respect of such charges determined in accordance with paragraph 3(2) of Schedule 1.

(4) Where the payments specified in paragraph (1) are payable in respect of accommodation which consists partly of residential accommodation and partly of other accommodation, only such proportion thereof as is referable to the residential accommodation shall count as eligible rent for the purposes of these Regulations.

(5) Where more than one person is liable to make payments in respect of a dwelling, the payments specified in paragraph (1) shall be apportioned for the purpose of calculating the eligible rent for each such person having regard to all the circumstances, in particular, the number of such persons and the proportion of rent paid by each such person.

(6) The amount of the deduction referred to in paragraph (3) shall be—

- (a) except in a case to which sub-paragraph (c) applies, if the dwelling occupied by the claimant is a self-contained unit, the amount of the charges;
- (b) in any other case except one to which sub-paragraph (c) applies, the proportion of those charges in respect of the self-contained unit, which is obtained by dividing the area of the dwelling occupied by the claimant by the area of the self-contained unit of which it forms part; or
- (c) where the charges vary in accordance with the amount of water actually used, the amount which the appropriate authority considers to be fairly attributable to water and sewerage services, having regard to the actual or estimated consumption of the claimant.

(7) In this regulation and Schedule 1—

“service charges” means periodical payments for services, whether or not under the same agreement as that under which the dwelling is occupied, or whether or not such a

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(a) 1993 c. 44.

charge is specified as separate from or separately identified within other payments made by the occupier in respect of the dwelling; and

“services” means services performed or facilities (including the use of furniture) provided for, or rights made available to, the occupier of a dwelling.”

(2) For the purposes of paragraph 4(1), regulation 13 of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations is as follows—

“Restrictions on unreasonable payments

13.—(1) Where a rent is registered in respect of a dwelling under Part 4 or 5 of the Rent Act 1977(a) or Part 4 or 7 of the Rent (Scotland) Act 1984(b) and the rent recoverable from a claimant is limited to the rent so registered, his eligible rent determined in accordance with regulation 12 (rent) shall not exceed the rent so registered.

(2) Where a rent has been determined by a rent assessment committee in respect of a dwelling under Part 1 of the Housing Act 1988(c) or Part 2 of the Housing (Scotland) Act 1988(d), the claimant’s eligible rent determined in accordance with regulation 12 shall not exceed the rent determined by the committee during the twelve months beginning with the first day on which that determination had effect.

(3) The relevant authority shall consider—

- (a) whether by reference to a determination or re-determination made by a rent officer in exercise of a function conferred on him by an order under section 122 of the Housing Act 1996(e) or otherwise, whether a claimant occupies a dwelling larger than is reasonably required by him and others who also occupy that dwelling (including any non-dependants of his and any person paying rent to him) having regard in particular to suitable alternative accommodation occupied by a household of the same size; or
- (b) whether by reference to a determination or re-determination made by a rent officer in exercise of a function conferred on him by an order under section 122 of the Housing Act 1996 or otherwise, whether the rent payable for his dwelling is unreasonably high by comparison with the rent payable in respect of suitable alternative accommodation elsewhere,

and, where it appears to the authority that the dwelling is larger than is reasonably required or that the rent is unreasonably high, the authority shall, subject to paragraphs (4) to (7), treat the claimant’s eligible rent, as reduced by such amount as it considers appropriate having regard in particular to the cost of suitable alternative accommodation elsewhere and the claimant’s maximum housing benefit shall be calculated by reference to the eligible rent as so reduced.

(4) If any person to whom paragraph (10) applies—

- (a) is aged 60 or over; or
- (b) is incapable of work for the purposes of one or more of the provisions of the Social Security Act, or Part 2 of the Act; or
- (c) is treated as capable of work in accordance with regulations made under section 171E of the Act(f); or
- (d) is a member of the same household as a child or young person for whom he or his partner is responsible,

no deduction shall be made under paragraph (3) unless suitable cheaper alternative accommodation is available and

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(a) 1977 c. 42.

(b) 1984 c. 58.

(c) 1988 c. 50.

(d) 1988 c. 43.

(e) 1996 c. 52.

(f) Section 171E was inserted by section 6 of the Social Security (Incapacity for Work) Act 1994 (c. 18).

the authority considers that, taking into account the relevant factors, it is reasonable to expect the claimant to move from his present accommodation.

(5) No deduction shall be made under paragraph (3) for a period of 12 months from the date of death of any person to whom paragraph (10) applied or, had a claim been made, would have applied, if the dwelling which the claimant occupies is the same as that occupied by him at that date except where the deduction began before the death occurred.

(6) For the purposes of paragraph (5), a claimant shall be treated as occupying the dwelling if paragraph (13) of regulation 7 (circumstances in which a person is to be treated as occupying a dwelling) is satisfied and for that purpose sub-paragraph (b) of that paragraph shall be treated as if it were omitted.

(7) Without prejudice to the operation of paragraph (4), but subject to paragraph (8), where the relevant authority is satisfied that a person to whom paragraph (10) applies was able to meet the financial commitments for his dwelling when they were entered into, no deduction shall be made under paragraph (3) during the first 13 benefit weeks of the claimant's award of housing benefit.

(8) Paragraph (7) shall not apply where a claimant was previously entitled to benefit in respect of an award of housing benefit which fell wholly or partly less than 52 weeks before the commencement of his current award of housing benefit.

(9) For the purposes of this regulation—

- (a) in deciding what is suitable alternative accommodation, the relevant authority shall take account of the nature of the alternative accommodation and the facilities provided having regard to the age and state of health of all the persons to whom paragraph (10) applies and, in particular, where a claimant's present dwelling is occupied with security of tenure, accommodation shall not be treated as suitable alternative accommodation unless that accommodation will be occupied on terms which will afford security of tenure reasonably equivalent to that presently enjoyed by the claimant; and
- (b) the relevant factors in paragraph (4) are the effects of a move to alternative accommodation on—
  - (i) the claimant's prospects of retaining his employment; and
  - (ii) the education of any child or young person referred to in paragraph (4)(d) if such a move were to result in a change of school.

(10) This paragraph applies to the following persons—

- (a) the claimant;
- (b) any member of his family;
- (c) if the claimant is a member of a polygamous marriage, any partners of his and any child or young person for whom he or a partner is responsible and who is a member of the same household;
- (d) subject to paragraph (11), any relative of the claimant or his partner who occupies the same dwelling as the claimant, whether or not they reside with him.

(11) Paragraph (10)(d) shall only apply to a relative who has no separate right of occupation of the dwelling which would enable him to continue to occupy it even if the claimant ceased his occupation of it."

(3) For the purposes of regulation 12(3) of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations, as inserted by paragraph (2) above, regulation 13ZA of both those Regulations is as follows—

"Restrictions on rent increases

13ZA.—(1) Subject to paragraph (2), where a claimant's eligible rent is increased during an award of housing benefit, the relevant authority shall, if it considers, whether by reference to a determination or re-determination made by a rent officer in exercise of a function conferred on him by an

order under section 122 of the Housing Act 1996, or otherwise, either—

- (a) that the increase is unreasonably high having regard in particular to the level of increases for suitable alternative accommodation, or
- (b) in the case of an increase which takes place less than 12 months after the date of the previous increase, that the increase is unreasonable having regard to the length of time since that previous increase,

treat the eligible rent as reduced either by the full amount of the increase or, if it considers that a lesser increase was reasonable in all the circumstances, by the difference between the full amount of the increase and the increase that is reasonable having regard in particular to the level of increases for suitable alternative accommodation, and the claimant's maximum housing benefit shall be calculated by reference to the eligible rent as so reduced.

(2) No deduction shall be made under this regulation for a period of 12 months from the date of death of any person to whom paragraph (1) of regulation 13 (restrictions on unreasonable payments) applied or, had a claim been made, would have applied, if the dwelling which the claimant occupies is the same as that occupied by him at that date except where the deduction began before the death occurred.

(3) For the purposes of paragraph (2), a claimant shall be treated as occupying the dwelling if paragraph (13) of regulation 7 (circumstances in which a person is to be treated as occupying a dwelling) is satisfied and for that purpose sub-paragraph (b) of that paragraph shall be treated as if it were omitted."

### Persons from abroad

6.—(1) Where, immediately before the coming into force of the Consolidating Regulations, a person is entitled to council tax benefit or, as the case may be, housing benefit, by virtue of regulation 12(1) of the Social Security (Persons From Abroad) Miscellaneous Amendments Regulations 1996(a) ("the 1996 Regulations"), the modifications specified in relation to council tax benefit in paragraph (2) or, as the case may be, in relation to housing benefit in paragraph (3), shall continue to have effect both as regards that person and as regards persons who are members of his family on 5th February 1996.

(2) The modifications specified in this paragraph are that for regulation 7 of both the Council Tax Benefit Regulations and the Council Tax Benefit (State Pension Credit) Regulations there shall be substituted—

#### "Persons from abroad

7.—(1) A person from abroad is a person of a prescribed class for the purposes of section 131(3)(b) of the Act.

(2) In paragraph (1) a "person from abroad" means a person other than a person to whom paragraph (3) or (6) applies, who has limited leave (as defined in section 33(1) of the 1971 Act) to enter or remain in the United Kingdom which was given in accordance with any provision in the immigration rules (as defined in that section) relating to—

- (a) there being, or to there needing to be, no recourse to public funds, or
- (b) there being no charge on public funds,

during that limited leave.

(3) Subject to paragraph (7) this paragraph applies to a person who—

- (a) is a national of a European Economic Area State, a state which is a signatory to the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953), a state which is a signatory to the Council of Europe Social Charter (signed in Turin on 18th October 1961), the Channel Islands or the Isle of Man; or

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(a) S.I. 1996/30.

- (b) having, during any one period of limited leave (including any such period as extended), supported himself without recourse to public funds other than any such recourse by reason of the previous application of this sub-paragraph, is temporarily without funds during that period of leave because remittances to him from abroad have been disrupted, provided that there is a reasonable expectation that his supply of funds will be resumed.
- (4) In paragraph (1) “person from abroad” also means any person other than a person to whom paragraph (6) applies who—
- (a) having a limited leave (as defined in section 33(1) of the 1971 Act) to enter or remain in the United Kingdom, has remained without further leave under that Act beyond the time limited by the leave; or
- (b) is the subject of a deportation order being an order under section 5(1) of the 1971 Act (deportation) requiring him to leave and prohibiting him from entering the United Kingdom except where his removal from the United Kingdom has been deferred in writing by the Secretary of State; or
- (c) is adjudged by the immigration authorities to be an illegal entrant (as defined in section 33(1) of the 1971 Act) who has not subsequently been given leave under that Act to enter or remain in the United Kingdom except a person who has been allowed to remain in the United Kingdom with the consent in writing of the Secretary of State; or
- (d) is a national of a European Economic Area State and is required by the Secretary of State to leave the United Kingdom; or
- (e) is not habitually resident in the United Kingdom, the Republic of Ireland, the Channel Islands or the Isle of Man, but for this purpose no person shall be treated as not habitually resident in the United Kingdom who is—
- (i) a worker for the purposes of Council Regulation (EEC) No. 1612/68 or (EEC) No. 1251/70 or a person with a right to reside in the United Kingdom pursuant to Council Directive No. 68/360/EEC or No. 73/148/EEC; or
- (ii) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967; or
- (iii) a person who has been granted exceptional leave to remain in the United Kingdom by the Secretary of State; or
- (iv) person to whom paragraph (5) applies; or
- (v) the subject of a deportation order, being an order under section 5(1) of the 1971 Act (deportation) requiring him to leave and prohibiting him from entering the United Kingdom, and whose removal from the United Kingdom has been deferred in writing by the Secretary of State; or
- (vi) adjudged by the immigration authorities to be an illegal entrant (as defined in section 33(1) of the 1971 Act), has not subsequently been given leave under that Act to enter or remain in the United Kingdom but has been allowed to remain in the United Kingdom with the consent in writing of the Secretary of State.
- (5) Subject to paragraph (7) this paragraph applies to a person who, having, during any one period of limited leave (including any such period as extended), supported himself without recourse to public funds other than any such recourse by reason of the previous application of this sub-paragraph, is temporarily without funds during that period of leave because remittances to him from abroad have been disrupted, provided that there is a reasonable expectation that his supply of funds will be resumed.
- (6) This paragraph applies to a person who—
- (a) is an asylum seeker, and for this purpose a person—

- (i) becomes an asylum seeker when he has submitted a claim for asylum to the Secretary of State that it would be contrary to the United Kingdom's obligations under the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, and the protocol to that convention, for him to be removed from, or required to leave, the United Kingdom and that claim is recorded by the Secretary of State as having been made; and
  - (ii) ceases to be an asylum seeker when his claim is recorded by the Secretary of State as having been finally determined or abandoned; or
  - (b) is awaiting the outcome of an appeal under Part 2 of the 1971 Act (including any period for which the appeal is treated as pending under section 33(4) of that Act); or
  - (c) has no or no further right of appeal under the 1971 Act but has been allowed to remain in the United Kingdom while an application so to remain is, or representations on his behalf are, being considered by the Secretary of State; or
  - (d) except where he is a person to whom paragraph (4)(b) applies, has been granted permission to remain in the United Kingdom pending the removal from the United Kingdom of a person who is the subject of a deportation order but whose deportation has been deferred in writing by the Secretary of State; or
  - (e) is subject to a direction for his removal from the United Kingdom but whose removal has been deferred in writing by the Secretary of State; or
  - (f) is in receipt of income support.
- (7) Paragraphs (3)(b) and (5) shall not apply to a person who has been temporarily without funds for any period, or the aggregate of any periods, exceeding 42 days during any one period of limited leave (including any such period as extended).
- (8) In this regulation—
- “the 1971 Act” means the Immigration Act 1971(a); and
  - a “European Economic Area State” means a Member State, or Norway, Sweden, Iceland, Austria or Finland.”.

(3) The modifications specified in this paragraph are that for regulation 10 of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations, there shall be substituted—

**“Persons from abroad**

**10.**—(1) A person from abroad who is liable to make payments in respect of a dwelling shall be treated as if he were not so liable.

(2) In paragraph (1) a “person from abroad” means a person, other than a person to whom paragraph (3) or (6) applies, who has limited leave (as defined in section 33(1) of the 1971 Act) to enter or remain in the United Kingdom which was given in accordance with any provision in the immigration rules (as defined in that section) relating to—

- (a) there being, or to there needing to be, no recourse to public funds, or
- (b) there being no charge on public funds,

during that limited leave.

(3) Subject to paragraph (7) this paragraph applies to a person who—

- (a) is a national of a European Economic Area State, a state which is a signatory to the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953)(b), a state which is a signatory to the Council of Europe Social Charter (signed in Turin on 18th October 1961), the Channel Islands or the Isle of Man; or

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(a) 1971 c. 77.

(b) Cmnd. 9512.

## Sch. 3

- (b) having, during any one period of limited leave (including any such period as extended), supported himself without recourse to public funds other than any such recourse by reason of the previous application of this sub-paragraph, is temporarily without funds during that period of leave because remittances to him from abroad have been disrupted, provided that there is a reasonable expectation that his supply of funds will be resumed.
- (4) In paragraph (1) “person from abroad” also means any person other than a person to whom paragraph (6) applies who—
- (a) having a limited leave (as defined in section 33(1) of the 1971 Act) to enter or remain in the United Kingdom, has remained without further leave under that Act beyond the time limited by the leave; or
- (b) is the subject of a deportation order being an order under section 5(1) of the 1971 Act (deportation) requiring him to leave and prohibiting him from entering the United Kingdom except where his removal from the United Kingdom has been deferred in writing by the Secretary of State; or
- (c) is adjudged by the immigration authorities to be an illegal entrant (as defined in section 33(1) of the 1971 Act) who has not subsequently been given leave under that Act to enter or remain in the United Kingdom except a person who has been allowed to remain in the United Kingdom with the consent in writing of the Secretary of State.
- (d) is a national of a European Economic Area State and is required by the Secretary of State to leave the United Kingdom; or
- (e) is not habitually resident in the United Kingdom, the Republic of Ireland, the Channel Islands or the Isle of Man, but for this purpose no person shall be treated as not habitually resident in the United Kingdom who is—
- (i) a worker for the purposes of Council Regulation (EEC) No. 1612/68 or (EEC) No. 1251/70 or a person with a right to reside in the United Kingdom pursuant to Council Directive No. 68/360/EEC or No. 73/148/EEC; or
- (ii) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(a), as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967; or
- (iii) a person who has been granted exceptional leave to remain in the United Kingdom by the Secretary of State; or
- (iv) a person to whom paragraph (5) applies; or
- (v) the subject of a deportation order, being an order under section 5(1) of the 1971 Act (deportation) requiring him to leave and prohibiting him from entering the United Kingdom, and whose removal from the United Kingdom has been deferred in writing by the Secretary of State; or
- (vi) adjudged by the immigration authorities to be an illegal entrant (as defined in section 33(1) of the 1971 Act), has not subsequently been given leave under that Act to enter or remain in the United Kingdom but has been allowed to remain in the United Kingdom with the consent in writing of the Secretary of State.
- (5) Subject to paragraph (7) this paragraph applies to a person who, having, during any one period of limited leave (including any such period as extended), supported himself without recourse to public funds other than any such recourse by reason of the previous application of this sub-paragraph, is temporarily without funds during that period of leave because remittances to him from abroad have been disrupted, provided that there is a reasonable expectation that his supply of funds will be resumed.

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(a) Cmnd. 9171.



(6) This paragraph applies to a person who—

(a) is an asylum seeker, and for this purpose a person—

- (i) becomes an asylum seeker when he has submitted a claim for asylum to the Secretary of State that it would be contrary to the United Kingdom's obligations under the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, and the protocol to that convention, for him to be removed from, or required to leave, the United Kingdom and that claim is recorded by the Secretary of State as having been made; and
  - (ii) ceases to be an asylum seeker when his claim is recorded by the Secretary of State as having been finally determined or abandoned;
- or

(b) is awaiting the outcome of an appeal under Part 2 of the 1971 Act (including any period for which the appeal is treated as pending under section 33(4) of that Act); or

(c) has no or no further right of appeal under the 1971 Act but has been allowed to remain in the United Kingdom while an application so to remain is, or representations on his behalf are, being considered by the Secretary of State; or

(d) except where he is a person to whom paragraph (4)(b) applies, has been granted permission to remain in the United Kingdom pending the removal from the United Kingdom of a person who is the subject of a deportation order but whose deportation has been deferred in writing by the Secretary of State; or

(e) is subject to a direction for his removal from the United Kingdom but whose removal has been deferred in writing by the Secretary of State; or

(f) is in receipt of income support.

(7) Paragraphs (3)(b) and (5) shall not apply to a person who has been temporarily without funds for any period, or the aggregate of any periods, exceeding 42 days during any one period of limited leave (including any such period as extended).

(8) In this regulation—

“the 1971 Act” means the Immigration Act 1971;

a “European Economic Area State” means a Member State or Norway, Sweden, Iceland, Austria or Finland.”.

(4) Where, immediately before the coming into force of the Consolidating Regulations, a person is entitled to council tax benefit or, as the case may be, housing benefit, by virtue of regulation 12(2) of the Social Security (Persons From Abroad) Miscellaneous Amendments Regulations 1996(a)—

(a) the Council Tax Benefit Regulations shall have effect in relation to him subject to the modifications set out in paragraph (2);

(b) the Housing Benefit Regulations shall have effect in relation to him subject to the modifications set out in paragraph (3).

(5) Sub-paragraph (6) applies where a person—

(a) is entitled to a specified benefit in respect of a period which includes 30th April 2004;

(b) claims a specified benefit on or after 1st May 2004 and it is subsequently determined that he is entitled to that benefit in respect of a period which includes 30th April 2004;

(c) claims a specified benefit on or after 1st May 2004 and it is subsequently determined that he is entitled to such a benefit in respect of a period which is continuous with a period of entitlement to the same or another specified benefit which includes 30th April 2004;

(d) claims jobseeker's allowance on or after 1st May 2004 and it is subsequently determined that he is entitled to jobseeker's allowance in respect of a period

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(a) S.I. 1996/30.

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of entitlement to that benefit which is linked to a previous period of entitlement which includes 30th April 2004 by virtue of regulations made under paragraph 3 of Schedule 1 to the Jobseekers Act 1995(a).

(6) Where this sub-paragraph applies—

(a) the Council Tax Benefit Regulations and the Council Tax Benefit (State Pension Credit) Regulations shall both have effect as if in regulation 7 (persons from abroad)—

(i) in paragraph (2)(a) the words “or a person who is an accession State worker requiring registration who is treated as a worker for the purpose of the definition of “qualified person” in regulation 5(1) of the Immigration (European Economic Area) Regulations 2000 pursuant to regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004” were omitted; and

(ii) paragraph (3) were omitted.

(b) the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations shall both have effect as if in regulation 10 (persons from abroad)—

(i) in paragraph (2)(a) the words “or a person who is an accession State worker requiring registration who is treated as a worker for the purpose of the definition of “qualified person” in regulation 5(1) of the Immigration (European Economic Area) Regulations 2000(b) pursuant to regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004(c)” were omitted; and

(ii) paragraph (3) were omitted.

(7) The provisions saved by sub-paragraph (6) shall continue to have effect until the date on which entitlement to a specified benefit for the purposes of sub-paragraph (5) ceases, and if there is more than one such specified benefit, until the last date on which such entitlement ceases.

(8) In sub-paragraphs (5) and (7), “specified benefit” means income support, housing benefit, council tax benefit, jobseeker’s allowance and state pension credit.

(9) In regulation 12 of the 1996 Regulations—

(a) in paragraph (1), for the words “those provisions” to the end of the paragraph, substitute “the provisions of the Income Support Regulations as then in force shall continue to have effect as if regulation 8(2) and (3)(c) of these Regulations had not been made”; and

(b) in paragraph (2), for the words “those Regulations as then in force” to the end of the paragraph, substitute “the Income Support Regulations as then in force shall have effect as if regulation 8 of these Regulations had not been made”.

(10) For the purposes of—

(a) regulation 10(1) of the Housing Benefit Regulations;

(b) regulation 10(1) of the Housing Benefit (State Pension Credit) Regulations;

(c) regulation 7(1) of the Council Tax Benefit Regulations; and

(d) regulation 7(1) of the Council Tax Benefit (State Pension Credit) Regulations,

a person who is an asylum seeker within the meaning of sub-paragraph (11) who has not ceased to be an asylum seeker by virtue of sub-paragraph (12), is not a person from abroad within the meaning of paragraph (1) of those regulations.

(11) An asylum seeker within the meaning of this paragraph is a person who—

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(a) 1995 c. 18; See S.I. 1996/207 and 1516, 1997/2863, 1998/563, 1999/2677, 2000/724, 2001/1029 and 2003/511.

(b) S.I. 2000/2326.

(c) S.I. 2004/1219.

- (a) submits on his arrival (other than on his re-entry) in the United Kingdom from a country outside the Common Travel Area a claim for asylum on or before 2nd April 2000 to the Secretary of State that it would be contrary to the United Kingdom's obligations under the Convention for him to be removed or required to leave, the United Kingdom and that claim is recorded by the Secretary of State as having been made before that date; or
- (b) on or before 2nd April 2000 becomes, while present in Great Britain, an asylum seeker when—
  - (i) the Secretary of State makes a declaration to the effect that the country of which he is a national is subject to such a fundamental change of circumstances that he would not normally order the return of a person to that country; and
  - (ii) he submits, within a period of three months from the date that declaration was made, a claim for asylum to the Secretary of State under the Convention relating to the Status of Refugees; and
  - (iii) his claim for asylum under that Convention is recorded by the Secretary of State as having been made.

(12) A person ceases to be an asylum seeker for the purposes of this paragraph when his claim for asylum is recorded by the Secretary of State as having been decided (other than on appeal) or abandoned.

(13) In paragraph (11) “the Common Travel Area” means the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland collectively and “the Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 as extended by Article 2(1) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967.

#### **Frequency of payment of rent allowance**

7.—(1) The regulations specified in sub-paragraphs (3) to (5) shall apply in accordance with the amendments so specified where the claimant—

- (a) was entitled to and in receipt of housing benefit on account of his liability to make payments in respect of a dwelling, which he occupied or was treated as occupying as his home, on 06 October 1996;
- (b) regulation 11 of the Housing Benefit (General) Amendment Regulations 1996(a) applied in the case of payments made to the claimant immediately before the consolidating Regulations came into force; and
- (c) continues to be entitled to and in receipt of housing benefit on account of such occupation of that dwelling.

(2) In this regulation, “claimant” includes the deceased partner of a claimant in any case where a claim is made by the surviving partner within 4 weeks of the death, provided that this regulation or regulation 11 of the Housing Benefit (General) Amendment Regulations 1996 applied to that deceased on the day of his death.

(3) Regulation 91 of the Housing Benefit Regulations shall have effect as if, in paragraph (3), for the words “Subject to regulations 92 to 97 (frequency of payment of and payment on account of rent allowance, payment provisions),” there are substituted the words “Subject to regulations 93 to 97 (payment on account of rent allowance, payment provisions)”.

(4) Regulation 72 of the Housing Benefit (State Pension Credit) Regulations shall have effect as if, in paragraph (3), for the words “Subject to regulations 73 to 78 (frequency of payment of and payment on account of rent allowance, payment provisions),” there are substituted the words “Subject to regulations 74 to 78 (payment on account of rent allowance, payment provisions)”.

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(a) S.I. 1996/965.

(5) Regulation 92 of the Housing Benefit Regulations and regulation 73 of the Housing Benefit (State Pension Credit) Regulations (frequency of payment of a rent allowance) shall both have effect as if—

(a) for paragraph (2), there is substituted—

“(2) A payment of a rent allowance in accordance with paragraph (1) shall be made insofar as it is practicable to do so, 2 weeks before the end of the period in respect of which it is made unless the liability to pay rent of the person entitled is in respect of a past period, in which case payment of the rent allowance may be made at the end of that period.”;

(b) paragraphs (3) and (4) are omitted;

(c) in paragraphs (5) and (6), the words “Except in a case to which paragraph (3) applies,” are omitted; and

(d) in paragraph (7) the words “Subject to paragraphs (2), (3) and (5),” are omitted.

<sup>1</sup>Para. 8 of Sch. 3 substituted by reg. 6(3) of S.I. 2007/2870. See reg. 1 to this S.I. for when to apply.

#### <sup>1</sup>Local reference rent taper

**8.—**(1) Regulation 13 of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations (maximum rent) shall have effect in the case of a claimant to whom any of sub-paragraphs (3) to (6) applies subject to the amendment specified in sub-paragraph (2).

(2) In paragraph (3) of regulation 13 at the end, add "plus 50 per cent. of the amount by which the claim related rent exceeds the local reference rent."

(3) This sub-paragraph applies to a claimant who has been continuously entitled to and in receipt of housing benefit—

(a) in respect of the same dwelling for a period which includes 5th October 1997; and

(b) which included an addition by virtue of paragraph (3) or (4) of regulation 11 of the 1987 Regulations as they had effect on 5th October 1997.

(4) Sub-paragraph (3) above shall continue to have effect in the case of a person who has ceased to be a welfare to work beneficiary or whose partner has ceased to be such a beneficiary where the person is entitled to housing benefit at the end of the 52 week period to which sub-paragraph (5) refers.

(5) This sub-paragraph applies in the case of a person—

(a) who was entitled to housing benefit in respect of the dwelling he occupied as his home on or before 5th October 1997;

(b) whose entitlement to housing benefit in respect of that dwelling was continuous from that date until it ceased because either the person or his partner became a welfare to work beneficiary;

(c) who on the day before entitlement to housing benefit ceased, was in receipt of an addition to benefit by virtue of paragraph (4) or (5) of regulation 11 of the 1987 Regulations as they had effect on 5th October 1997; and

(d) who subsequently becomes re-entitled to housing benefit in respect of that dwelling within 52 weeks of him or his partner becoming a welfare to work beneficiary.

(6) In this paragraph, "welfare to work beneficiary" means a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995(a) applies." ◀

*The paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2007/2870 at page 8.3767 for details.*

#### Local reference rent taper

**8.—**(1) Regulation 13 of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations (maximum rent) shall have effect in the case of a claimant to whom any of sub-paragraphs (3) to (6) applies subject to the amendments specified in sub-paragraph (2).

- (2) The amendments of regulation 13 are—
- (a) in paragraph (6) in sub-paragraph (a), at the end, add “plus 50 per cent. of the amount by which the relevant rent exceeds the local reference rent;”;
  - (b) in paragraph (7) at the end, add the words “plus 50 per cent. of the amount by which that reckonable rent exceeds the local reference rent.”
- (3) This sub-paragraph applies to a claimant who has been continuously entitled to and in receipt of housing benefit—
- (a) in respect of the same dwelling for a period which includes 5th October 1997; and
  - (b) which included an addition by virtue of paragraph (3) or (4) of regulation 11 of the 1987 Regulations as they had effect on 5th October 1997.
- (4) Sub-paragraph (3) above shall continue to have effect in the case of a person who has ceased to be a welfare to work beneficiary or whose partner has ceased to be such a beneficiary where the person is entitled to housing benefit at the end of the 52 week period to which sub-paragraph (5) refers.
- (5) This sub-paragraph applies in the case of a person—
- (a) who was entitled to housing benefit in respect of the dwelling he occupied as his home on or before 5th October 1997;
  - (b) whose entitlement to housing benefit in respect of that dwelling was continuous from that date until it ceased because either the person or his partner became a welfare to work beneficiary;
  - (c) who on the day before entitlement to housing benefit ceased, was in receipt of an addition to benefit by virtue of paragraph (4) or (5) of regulation 11 of the 1987 Regulations(a) as they had effect on 5th October 1997; and
  - (d) who subsequently becomes re-entitled to housing benefit in respect of that dwelling within 52 weeks of him or his partner becoming a welfare to work beneficiary.
- (6) In this paragraph, “welfare to work beneficiary” means a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995(b) applies.

### **Care homes**

**9.—**(1) In regulation 2(1) of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations there shall be inserted in the appropriate place—

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

(2) Sub-paragraph (3) shall apply to a person who, on 3rd October 2005 was a person to whom paragraph (2) of regulation 7 of the 1987 Regulations as in force on that date applied.

(3) Where this paragraph applies—

- (a) regulation 9 of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations shall have effect as if—
  - (i) in paragraph (1)(k), at the beginning there were inserted the words “except where paragraph (1A) applies”;
  - (ii) after paragraph (1) there were inserted—

“(1A) This paragraph applies to a person who—

    - (a) was or became entitled immediately before 30th October 1990 to housing benefit in respect of residential accommodation; or
    - (b) became or becomes entitled to housing benefit in respect of such accommodation on or after that date but only if the claim was made or, as the case may be, the appropriate authority is satisfied that the claim

(a) See now regulation 13 as substituted by paragraph 5(2) of Schedule 3 to these Regulations.

(b) S.I. 1995/311.

## Sch. 3

<sup>1</sup>Words substituted in para. 9(3)(a)(ii) by reg. 7(4) of S.I. 2008/1042 as from 19.5.08.

was sent or delivered to the appropriate DWP office or designated office in accordance with <sup>1</sup>regulation 64(5)◀ (time and manner in which claims are made), before that date.”;

- (iii) for paragraph (4) there were substituted paragraph (3) of regulation 7 of the 1987 Regulations as in force on 23rd October 2005;
- (b) regulation 52 of the Housing Benefit Regulations shall have effect as if—
  - (i) paragraph (4) there were substituted—
    - “(4) For the purposes of paragraph (3), the prescribed circumstances are that the claimant—
      - (a) occupies residential accommodation as his home; or
      - (b) is a person to whom paragraph (1A), as inserted by paragraph 9(3)(a)(ii) of Schedule 3 to the Consequential Provisions Regulations (exceptions to circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) applies.”;
    - (ii) for paragraph (9), there were substituted—
      - “(9) Paragraph (8) shall not apply to residential accommodation of the type referred to in sub-paragraph (b) or (c) of paragraph (8) where such accommodation is residential accommodation for the purposes of regulation 9 and paragraph (4)(b) does not apply to the claimant in respect of that accommodation.”.

(4) Sub-paragraph (5) shall apply to a person who, on 3rd October 2005, was a person to whom paragraph (5) of regulation 7 of the 1987 Regulations as in force on that date applied.

- (5) Where this paragraph applies—
  - (a) regulation 9 of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations shall have effect as if—
    - (i) for paragraph (4) there were substituted paragraph (3) of regulation 7 of the 1987 Regulations as in force on 23rd October 2005;
    - (ii) after paragraph (4), there was inserted—
      - “(5) Subject to the following provisions of this regulation, paragraph (6) applies to a person who—
        - (a) occupies or is treated by regulation 6(8) of the 1987 Regulations as occupying residential accommodation on 31st March 1993;
        - (b) is or was liable to pay rent in respect of that accommodation for that day;
        - (c) is a person to whom sub-paragraph (a) or (b) of paragraph (2) of regulation 7 of the 1987 Regulations applies immediately before 1st April 1993; and
        - (d) is or was entitled to housing benefit in respect of the liability mentioned in sub-paragraph (b).
  - (6) In the case of a person to whom this paragraph applies, regulation 9 of these Regulations shall continue to apply to him as if the amendments to the 1987 Regulations specified in regulation 5(2) of the Social Security Benefits (Amendments Consequential Upon the Introduction of Community Care) Regulations 1992(a) had not been made.
  - (7) Subject to paragraph (8), where on 1st April 1993 paragraph (6) applies to a person that paragraph shall cease to apply to him—
    - (a) on the day on which he is first absent from the accommodation which he occupied or was treated under regulation 7(8) of the 1987 Regulations as occupying on 31st March 1993; and
    - (b) on any day which falls after that day.
  - (8) For the purposes of paragraph (7), any absence shall be disregarded during which the person is treated as occupying the accommodation as his home pursuant to regulation 7(12), (13) or (17) of these Regulations.

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(a) S.I. 1992/3147.

- (9) Where a person—
- (a) ceases to be entitled to housing benefit; and
  - (b) was before he ceased to be entitled a person to whom paragraph (6) applied, that paragraph shall not apply to him in the case of any subsequent claim for housing benefit.”;
- (b) regulation 52 of the Housing Benefit Regulations shall have effect as if—
- (i) for paragraph (4) there were substituted—  
“(4) For the purposes of paragraph (3), the prescribed circumstances are that the claimant—
    - (a) occupies residential accommodation as his home; or
    - (b) is a person to whom paragraph (6), as inserted by paragraph 9(5)(a)(ii) of Schedule 3 to the Consequential Provisions Regulations (exceptions to circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) applies.”;
  - (ii) for paragraph (9), there were substituted—  
“(9) Paragraph (8) shall not apply to residential accommodation of the type referred to in sub-paragraph (b) or (c) of paragraph (8) where such accommodation is residential accommodation for the purposes of regulation 9 and paragraph (4)(b) does not apply to the claimant in respect of that accommodation.”.
- (6) Sub-paragraph (7) shall apply to a person who, on 3rd October 2005, was a person to whom paragraph (7) of regulation 7 of the 1987 Regulations as in force on that date applied.
- (7) Where this paragraph applies—
- (a) regulation 9 of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations shall have effect as if—
    - (i) for paragraph (4) there were substituted paragraph (3) of regulation 7 of the 1987 Regulations as in force on 23rd October 2005;
    - (ii) after paragraph (4), there was inserted—  
“(5) Subject to the following provisions of this regulation, paragraph (6) applies to a person who—
      - (a) occupies or is treated under regulation 5(7C), (8) or (8C) of the 1987 Regulations as occupying accommodation in an establishment which on 1st April 1993 is registered as a small home under Part I of the Registered Homes Act 1984(a) or is deemed to be so registered under section 2(3) of the Registered Homes (Amendment) Act 1991(b) (registration of small homes where application for registration not determined);
      - (b) was occupying, or was treated under regulation 7(8) of the 1987 Regulations as occupying, that accommodation on 31st March 1993;
      - (c) is or was liable to pay rent in respect of that accommodation for 31st March 1993; and
      - (d) is or was entitled to housing benefit in respect of that liability.
  - (6) In the case of a person to whom this paragraph applies, paragraph (4), as substituted by paragraph 9(7)(a)(i) of Schedule 3 to the Consequential Provisions Regulations, shall apply as if sub-paragraph (a) of the substituted paragraph was omitted.
  - (7) Subject to paragraph (8), where on 1st April 1993 paragraph (6) applies to a person that paragraph shall cease to apply to him—
    - (a) on the day on which he is first absent from the accommodation which he occupied or was treated under regulation 7(8) of the 1987 Regulations as occupying on 31st March 1993; and
    - (b) on any day which falls after that day.

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(a) 1984 c. 23.

(b) 1991 c. 20.

(8) For the purposes of paragraph (7), any absence shall be disregarded during which the person is treated as occupying the accommodation as his home pursuant to regulation 7(12), (13) or (17) of these Regulations.

(9) Where a person—

(a) ceases to be entitled to housing benefit; and

(b) was before he ceased to be entitled a person to whom paragraph (6) applied,

that paragraph shall not apply to him in the case of any subsequent claim for housing benefit.

(10) Where on 31st March 1993 a person occupies or is treated as occupying an establishment mentioned in paragraph (5)(a) and on a day subsequent to that date the establishment—

(a) if it was registered under Part I of the Registered Homes Act 1984, ceases to be so registered; or

(b) if it was deemed to be so registered is neither registered nor deemed to be registered,

then on that day and on any day thereafter paragraph (9) shall not apply to that person.

(11) In this regulation, “small home” has the same meaning as it had in Part 1 of the Registered Homes Act 1984<sup>(a)</sup> by virtue of section 1(4A) of that Act.”

(b) regulation 52 of the Housing Benefit Regulations shall have effect as if—

(i) for paragraph (4) there were substituted—

“(4) For the purposes of paragraph (3), the prescribed circumstances are that the claimant—

(a) occupies residential accommodation as his home; or

(b) is a person to whom paragraph (6), as inserted by paragraph 9(7)(a)(ii) of Schedule 3 to the Consequential Provisions Regulations (exceptions to circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) applies.”;

(ii) for paragraph (9), there were substituted—

“(9) Paragraph (8) shall not apply to residential accommodation of the type referred to in sub-paragraph (b) or (c) of paragraph (8) where such accommodation is residential accommodation for the purposes of regulation 9 and paragraph (4)(b) does not apply to the claimant in respect of that accommodation.”.

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(a) 1984 c. 23.



**SCHEDULE 4**

Regulation 7

**Transitory Modifications**

**Provisions not yet in force**

**1.—(1) If—**

- (a) no date has been appointed as the date on which a provision mentioned in column 1 of the following Table is to come into force before 24th February 2006; or
- (b) a date has been appointed which is later than 24th February 2006,

then the paragraph of this Schedule mentioned in column 2 of the Table opposite that provision shall have effect until the appointed day.

**TABLE**

<i>Provision</i>	<i>Paragraph of this Schedule</i>
Section 12(2)(e) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(a).	Paragraph 2
Section 12(2)(g) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004.	Paragraph 3
Section 12(3) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004.	Paragraph 4

(2) If a date has been appointed as the date on which a provision mentioned in column 1 of the Table above is to come into force for some purposes of that provision but not for others, then the paragraph of this Schedule mentioned in column 2 of the Table opposite that provision shall have effect for those other purposes of that provision (in so far as it is capable of doing so) until the provisions are brought into force for the remaining purposes.

**Refugees –Housing Benefit**

**2.—(1) After regulation 10 of both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations, insert—**

**“Entitlement of a refugee to Housing Benefit**

<sup>1</sup>**10A.—(1) Where a person, who has made a claim for asylum, is notified that he has been recorded by the Secretary of State as a refugee, these Regulations shall have effect with respect to his entitlement to housing benefit for the relevant period which applies in his case in accordance with Schedule A1 (treatment of claims for housing benefit by refugees), but that entitlement is—**

- (a) subject to the provisions of Schedule A1; and
- (b) with respect to regulations 12 (rent) and 13 (maximum rent), subject to paragraph 4(8) of Schedule 3 to the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006.◀

*The paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2007/2870 at page 8.3767 for details.*

10A.—(1) Where a person, who has made a claim for asylum, is notified that he has been recorded by the Secretary of State as a refugee, these Regulations shall have effect with respect to his

<sup>1</sup>Reg. 10(1) substituted by reg. 6(4)(a) of S.I. 2007/2870. See reg. 1 to this S.I. for when to apply.

(a) 2004 c. 19.

entitlement to housing benefit for the relevant period which applies in his case in accordance with Schedule A1 (treatment of claims for housing benefit by refugees), but that entitlement is—

- (a) subject to the provisions of Schedule A1; and
- (b) with respect to regulations 12 (rent) and 13 (maximum rent), subject to paragraph 4(8) of Schedule 3 to the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (saving).

(2) Any housing benefit which is payable in consequence of this regulation shall be in the form of a rent allowance.

(3) In this regulation and in Schedule A1, “refugee” means a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees(a).”.

(2) Before Schedule 1 to both the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations, insert, subject to sub-paragraph (3)—

### “SCHEDULE A1

#### Treatment of claims for housing benefit by refugees

##### **Claim for housing benefit by a refugee**

1.—(1) Where a person (in this Schedule called “the claimant”), who has made a claim for asylum—

- (a) is subsequently notified by the Secretary of State that he has been recorded as a refugee; and
- (b) claims housing benefit—
  - (i) within the period specified in paragraph 2(4); and
  - (ii) in respect of one or more periods from the date of his claim for asylum to the date he is so notified,

his claim for housing benefit shall be treated as having been made on the date specified in sub-paragraph (2).

(2) A claim for housing benefit to which sub-paragraph (1) refers shall be treated as made on the date on which his claim for asylum was recorded by the Secretary of State as having been made.

(3) In this Schedule “the relevant period” means the period or any part of the period, from the date on which the claim for benefit is treated as made in accordance with sub-paragraph (2), to the date the claimant concerned is notified by the Secretary of State that he has been recorded as a refugee, for which housing benefit is claimed in accordance with this paragraph.

##### **Relevant authority to whom a claim for housing benefit by a refugee shall be made and time for making a claim**

2.—(1) A claim for housing benefit made by a refugee on or after 3rd April 2000 for the relevant period may be made to the relevant authority for the area in which the dwelling which the claimant occupied as his home was situate and in respect of which he was liable to make payments.

(2) Where the claimant has occupied more than one dwelling as his home in the relevant period, only one claim for housing benefit shall be made in respect of that period and such a claim shall be made to the authority for the area in which the dwelling occupied by the refugee is situate and in respect of which he was liable to make payments when, after he is notified that he has been recorded by the Secretary of State as a refugee, he makes a claim for housing benefit.

(3) The relevant authority to which a claim for housing benefit is made in accordance with this paragraph, shall determine the claimant’s entitlement to that benefit for the whole of the relevant period.

(4) A claim for housing benefit to which this paragraph refers, shall be made within 28 days of a claimant receiving notification from the Secretary of State that he has been recorded as a refugee.

(a) Cmnd. 9171.

(5) Regulation 83(12) of these Regulations (backdating of claims) shall not have effect with respect to claims to which this Schedule applies.

**<sup>1</sup>Eligible rent**

**3.—(1)** Subject to sub-paragraph (2), for the purpose of determining a claimant's eligible rent—

- (a) regulations 12 and 13 have effect as they were in force on 1st January 1996;
- (b) in paragraph (1) of regulation 12 of the former Regulations (restrictions on rent increases) as saved by paragraph 5 of Schedule 3 to the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 the words from "whether by reference" to "or otherwise" shall be omitted; and
- (c) regulation 14 (requirement to refer to a rent officer) shall not have effect.

(2) In determining a claimant's eligible rent for the relevant period, the relevant authority may have regard to information in their possession or which they may obtain, as to the level of rents which had effect in that period in respect of any area in which the claimant occupied a dwelling as his home and in respect of which his claim for housing benefit is made.◀

*The paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2007/2870 at page 8.3767 for details.*

**Eligible rent**

**3.—(1)** Subject to sub-paragraph (2), for the purpose of determining a claimant's eligible rent—

- (a) regulations 12 and 13 have effect as they were in force on 1st January 1996;
- (b) in paragraph (1) of regulation 12 of the former Regulations (restrictions on rent increases) as saved by paragraph 5 of Schedule 3 to the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 the words from "whether by reference" to "or otherwise" shall be omitted; and
- (c) regulation 14 (requirement to refer to a rent officer) shall not have effect.

(2) In determining a claimant's eligible rent for the relevant period, the relevant authority may have regard to information in their possession or which they may obtain, as to the level of rents which had effect in that period in respect of any area in which the claimant occupied a dwelling as his home and in respect of which his claim for housing benefit is made.

**Applicable amounts**

**4.** With respect to a claim for housing benefit under this Schedule, the applicable amounts for the purposes of Part 5 shall be the aggregate of any personal allowance and premium which would have been applicable in the claimant's case in the relevant period at the rates for each tax year to which the claim relates set by an Order made under section 150 of the Administration Act (annual up-rating of benefits).

**Evidence and information**

**5.—(1)** A claimant who makes a claim for housing benefit for the relevant period shall furnish such certificates, documents, information and evidence in connection with the claim, or evidence needed for the determination of the claim or any questions arising in connection with the claim, as may be reasonably required by the relevant authority in order to determine that person's entitlement to that benefit and which are in his possession or which he may reasonably be expected to obtain.

(2) The relevant authority may require information to be provided by—

- (a) the landlord of any dwelling in respect of which a claim for housing benefit arises under this Schedule;
- (b) any other person to whom the rent for the dwelling was paid; and

<sup>1</sup>Para. 3 of Sch. A1 substituted by reg. 6(4)(b) of S.I. 2007/2870. See reg. 1 to this S.I. for when to apply.

## Sch. 4

(c) any person who made payments of rent to a landlord on behalf of a claimant in the relevant period, in particular as to the amount of any such rent and any service charges which were included in the rent.

(3) Where the claimant is unable to furnish the necessary evidence to substantiate his claim the authority shall determine the claim on the basis of the evidence that is produced, including any statements made by the claimant himself, any information provided by a landlord under sub-paragraph (2) or by any other person.

(4) Where the claimant has resided in the areas of two or more local authorities in Great Britain in the relevant period, the relevant authority to which the claim for housing benefit is made may require any such other authority in whose area the claimant has resided, to provide such information as the relevant authority may reasonably require in connection with the exercise of its functions under regulation 10A and this Schedule and such other authority shall provide the necessary information within 14 days of receiving the request for the information concerned or such longer period as is reasonable in that case.

**Changes of circumstances**

6. With respect to claims for housing benefit to which paragraph 1 above applies, for paragraph (1) of regulation 88 (duty to notify changes of circumstances) there shall be substituted the following paragraph—

“(1) Upon claiming housing benefit in accordance with Schedule A1 (treatment of claims for housing benefit by refugees) a claimant, or any person by whom or on whose behalf sums payable by way of housing benefit are receivable, shall provide the relevant authority with information concerning any change of circumstances which occurred during the period to which the claim relates which the claimant or that other person might reasonably expect to affect the claimant’s right to and the amount of benefit.”

<sup>1</sup>Para. 7 of Sch. A1 substituted by reg. 6(4)(c) of S.I. 2007/2870. See reg. 1 to this S.I. for when to apply.

**<sup>1</sup>Calculation of amount of benefit**

7. The appropriate maximum housing benefit to which a claimant is entitled under regulation 10A and this Schedule shall be calculated on a weekly basis in accordance with Part 8 as it had effect for the relevant period. ◀

*The paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2007/2870 at page 8.3767 for details.*

## Calculation of amount of benefit

7. The appropriate maximum housing benefit to which a claimant is entitled under regulation 10A and this Schedule shall be calculated on a weekly basis in accordance with Part 8 as it had effect for the relevant period.

**Payments**

8.—(1) Subject to sub-paragraph (5), where it is determined that the claimant is entitled to housing benefit in accordance with regulation 10A and this Schedule, payment of the amount due shall be made within 14 days of the date of that determination.

(2) The relevant authority in respect of a claim to which this Schedule applies is made, shall be solely responsible for the payment of any housing benefit to which the claimant is entitled for the relevant period.

(3) Regulation 93 (payment on account of a rent allowance) shall not have effect with respect to any payment to which a claimant is entitled under regulation 10.

(4) Regulations 95 and 96 (circumstances in which payment of benefit will be made to a landlord) shall not have effect with respect to a payment to which this Schedule applies but where—

(a) a landlord shows that, for the whole or any part of the relevant period for which housing benefit in the form of a rent allowance has been awarded, no payment of rent has been made;

- (b) information is provided to show the rent that remains due;
- (c) the claimant has been notified that a payment to the landlord may be made; and
- (d) the relevant authority, having taken account of any representations made by the claimant with respect to such a payment being made, consider that it is reasonable that the benefit or part of the benefit due should be paid to the landlord,

any benefit to which the claimant is entitled under regulation 10A and this Schedule up to the amount of the eligible rent that is due, may be paid direct to the landlord concerned in respect of that rent.

(5) Where a claimant was the tenant of a housing or local authority for the whole or part of the relevant period, to the extent that any eligible rent remains due to the authority concerned in respect of the whole or part of that period, any housing benefit to which the claimant is entitled under regulation 10A and this Schedule shall—

- (a) where that authority is the authority to whom the claim under this Schedule is made, be reduced by the amount of the eligible rent remaining due to that authority; and

- (b) in any other case, be paid to the authority concerned,

and any balance of benefit remaining due in respect of that period shall be paid to the claimant.

**Offsets**

9. Any housing benefit which has otherwise been paid to the claimant or any partner of his, in respect of any part of the relevant period, shall be offset against any award due to the claimant by virtue of regulation 10A and this Schedule, except to the extent that the benefit paid or allowed to that partner was due in respect of a period for which he was not a partner of the claimant.

**Matters to be included in the decision notice**

10. Parts 1 to 3, 5 and 6 of Schedule 9 (matters to be included in the decision notice) shall apply with respect to claims made in accordance with regulation 10A.”.



(3) In its application to the Housing Benefit (State Pension Credit) Regulations, Schedule A1 shall have effect as if—

- (a) for the reference to “Regulation 83(12)” in paragraph 2(5), there were substituted a reference to “Regulation 64(13)”;
- (b) for the reference to “regulation 88” in paragraph 6, there were substituted a reference to “regulation 69”;
- (c) for the reference to “Part 8” in paragraph 7, there were substituted a reference to “part 7”;
- (d) for the reference to “regulation 93” in paragraph 8(3), there were substituted a reference to “regulation 74”;
- (e) for the reference to “Regulations 95 and 96” in paragraph 8(4), there were substituted a reference to “Regulations 76 and 77”;
- (f) for the reference to “Schedule 9” in paragraph 10, there were substituted a reference to “Schedule 8”.

(4) For paragraph 51 of Schedule 5 to the Housing Benefit Regulations, substitute—

“**51.** Any council tax benefit, including any amount of council tax benefit to which a person is entitled by virtue of regulation 7A of the Council Tax Benefit Regulations 2006(a).”.

(5) After paragraph 55 of Schedule 5 to the Housing Benefit Regulations insert—

“**55A.** Any amount of housing benefit to which a person is entitled by virtue of regulation 10A (entitlement of a refugee to housing benefit).

**55B.** Any amount of income support to which a person is entitled by virtue of regulation 21ZB of the Income Support Regulations(b) (treatment of refugees).”.

(6) After paragraph 48 of Schedule 6 to the Housing Benefit Regulations insert—

“**48A.** Any amount of housing benefit to which a person is entitled by virtue of regulation 10A (entitlement of a refugee to housing benefit) but only for a period of 52 weeks from the date that such an amount is received pursuant to that regulation.

**48B.** Any amount of income support to which a person is entitled by virtue of regulation 21ZB of the Income Support Regulations (treatment of refugees) but only for a period of 52 weeks from the date that such an amount is received pursuant to that regulation.”.

### **Refugees - council tax benefit**

**3.—**(1) After regulation 7 of both the Council Tax Benefit Regulations and the Council Tax Benefit (State Pension Credit) Regulations, insert—

#### **“Entitlement of a refugee to council tax benefit**

**7A.** Where a person, who has made a claim for asylum, is notified that he has been recorded by the Secretary of State as a refugee, these Regulations shall have effect with respect to his entitlement to council tax benefit for the relevant period which applies in his case in accordance with Schedule A1 (treatment of claims for council tax benefit by refugees) but subject to the provisions of that Schedule.”.

(2) Before Schedule 1 to both the Council Tax Benefit Regulations and the Council Tax Benefit (State Pension Credit) Regulations, insert, subject to sub-paragraph (3)—

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(a) See regulation 7 and Schedule 4, paragraph 2 for regulation 10A and Schedule A1 (claims by refugees).

(b) S.I. 1987/1967; regulation 21ZB was inserted by S.I. 2000/636.

## “SCHEDULE A1

Regulation 7A

## Treatment of claims for council tax benefit by refugees

*Claim for council tax benefit by a refugee*

**1.**—(1) Where a person (in this Schedule called “the claimant”), who has made a claim for asylum—

(a) is subsequently notified by the Secretary of State that he has been recorded as a refugee; and

(b) claims council tax benefit—

(i) within the period specified in paragraph 2(4); and

(ii) in respect of one or more periods from the date of his claim for asylum to the date he is so notified,

his claim for council tax shall be treated as having been made on the dates specified in sub-paragraph (2).

(2) A claim for council tax benefit to which sub-paragraph (1) refers shall be treated as made on the date on which his claim for asylum was recorded by the Secretary of State as having been made.

(3) In this Schedule “the relevant period” means the period or any part of the period from the date on which the claim for benefit is treated as made, in accordance with subparagraph (2), to the date the claimant concerned is notified by the Secretary of State that he has been recorded as a refugee, for which council tax benefit is claimed in accordance with this paragraph.

*Relevant authority to whom a claim for council tax benefit by a refugee shall be made and time for making a claim*

**2.**—(1) A claim for council tax benefit made by a refugee on or after 3rd April 2000 for the relevant period may be made to the relevant authority for the area where the dwelling in which the claimant occupied as his home was situate and in respect of which he was liable for council tax.

(2) Where the claimant has occupied more than one dwelling as his home in the relevant period, only one claim for council tax benefit shall be made in respect of that period and such a claim shall be made to the authority for the area in which the dwelling occupied by the refugee is situate and in respect of which he was liable to make payment when, after he is notified that he has been recorded by the Secretary of State as a refugee, he makes a claim for council tax benefit.

(3) The relevant authority to which a claim for council tax benefit is made in accordance with this paragraph, shall determine the claimant’s entitlement to that benefit for the whole of the relevant period.

(4) A claim for council tax benefit, to which his paragraph refers, shall be made within 28 days of a claimant receiving notification from the Secretary of State that he has been recorded as a refugee.

*Applicable amounts*

**3.** With respect to a claim for council tax benefit under this Schedule, the applicable amounts for the purposes of Part 3 of these Regulations shall be the aggregate of any personal allowance and premium which would have been applicable in the claimant’s case in the relevant period at the rates for each tax year to which the claim relates set by an Order made under section 150 of the Administration Act (annual up-rating of benefits).



*Evidence and information*

4.—(1) A claimant who makes a claim for council tax benefit for the relevant period shall furnish such certificates, documents, information and evidence in connection with the claim, or evidence needed for the determination of the claim or any questions arising in connection with the claim, as may be reasonably required by the relevant authority in order to determine that person's entitlement to that benefit and which are in his possession or which he may reasonably be expected to obtain.

(2) The relevant authority may require information to be provided by the landlord of any dwelling in respect of which a claim for council tax benefit arises under this Schedule, in particular as to the period for which the claimant resided in the dwelling during the relevant period.

(3) Where the claimant is unable to furnish the necessary evidence to substantiate his claim, the authority shall determine the claim on the basis of the evidence that is produced including any statements made by the claimant himself and any information provided by a landlord of any dwelling in respect of which the claim under this Schedule arises or by any other person.

(4) Where the claimant has resided in the areas of two or more local authorities in Great Britain in the relevant period, the relevant authority to which the claim for council tax benefit is made may require such other authority in whose area the claimant has resided, to provide such information as the relevant authority may reasonably require in connection with the exercise of its functions under regulation 7A and this Schedule and that other authority shall provide the necessary information within 14 days of receiving the request for the information concerned or such longer period as is reasonable in that case.

*Change of circumstances*

5. With respect to claims for council tax benefit to which paragraph 1 above applies, for paragraph (1) of regulation 74 (duty to notify changes of circumstances) there shall be substituted the following paragraph—

“(1) Upon claiming council tax benefit in accordance with Schedule A1 (treatment of claims for council tax benefit by refugees) a claimant, or any person by whom or on whose behalf sums payable by way of council tax benefit are receivable, shall provide the relevant authority to whom the claim is made with information concerning any change of circumstances which occurred during the period to which the claim relates which the claimant or that other person might reasonably expect to affect the claimant's right to the amount of benefit.”.

*Calculation of amount of council tax benefit*

6. The appropriate maximum council tax benefit, or alternative maximum council tax benefit to which a claimant is entitled under regulation 7A and this Schedule shall be calculated on a daily basis in accordance with Part 6 as it had effect for the relevant period.

*Payments*

7.—(1) Where it is determined that the claimant is entitled to council tax benefit in accordance with regulation 7A and this Schedule, the amount due shall be paid or allowed within 14 days of the date of that determination in accordance with regulation 77 (time and manner of granting council tax benefit).

(2) The relevant authority in respect of a claim to which this Schedule applies is made, shall be solely responsible for paying or allowing any council tax benefit to which the claimant is entitled for the relevant period.

(3) Subject to paragraph (4), where council tax is outstanding from the claimant to the relevant authority referred to in sub-paragraph (2), in respect of any part of the relevant period, that council tax shall be offset against any

council tax benefit to which the claimant is entitled under this Schedule and only the balance remaining, (if any), shall be paid to the claimant.

(4) Where council tax is outstanding from the claimant to an authority other than the relevant authority referred to in sub-paragraph (2) in respect of any part of the relevant period, council tax benefit due under this Schedule in respect of any such a part shall be paid to the authority concerned for the discharge of the council tax due.

*Offsets*

**8.** Any council tax benefit which has otherwise been paid or allowed to the claimant or any partner of his in respect of any part of the relevant period, shall be offset against any award due to the claimant by virtue of regulation 7A and this Schedule, except to the extent that the benefit paid or allowed to that partner was due in respect of a period for which he was not a partner of the claimant.

*Matters to be included in the decision notice*

**9.** Parts 1 to 6 of Schedule 8 to these Regulations (matters to be included in the decision notice) shall apply with respect to claims made in accordance with regulation 8.”.

(3) In its application to the Council Tax Benefit (State Pension Credit) Regulations, Schedule A1 shall have effect as if—

- (a) for the reference to “regulation 74” in paragraph 5, there were substituted a reference to “regulation 59”;
- (b) for the reference to “Part 6” in paragraph 6, there were substituted a reference to “Part 5”;
- (c) for the reference to “regulation 77” in paragraph 7(1), there were substituted a reference to “regulation 62”; and
- (d) for the reference to “Schedule 8” in paragraph 9, there were substituted a reference to “Schedule 7”.

(4) For paragraph 37 of Schedule 4 to the Council Tax Benefit Regulations, substitute—

“**37.** Any housing benefit, including any amount of housing benefit to which a person is entitled by virtue of <sup>1</sup>regulation 10A◀ of the Housing Benefit Regulations 2006(a).”.

<sup>1</sup>Words substituted in para. 3(4) by reg. 7(5) of S.I. 2008/1042 as from 19.5.08.

(5) After paragraph 56 of Schedule 4 to the Council Tax Benefit Regulations, insert—

“**56A.** Any council tax benefit to which the claimant is entitled including any amount of council tax benefit to which a person is entitled by virtue of regulation 7A of the Council Tax Benefit Regulations (entitlement of a refugee to council tax benefit).

**56B.** Any amount of income support to which a person is entitled by virtue of regulation 21ZB of the Income Support Regulations(b) (treatment of refugees).”.

(6) After paragraph 53 of Schedule 5 to the Council Tax Benefit Regulations, insert—

“**53A.** Any amount of council tax benefit to which a person is entitled by virtue of regulation 7A (entitlement of a refugee to council tax benefit) but only for a period of 52 weeks from the date that such an amount is received pursuant to that regulation.

(a) See the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217), regulation 7 and Schedule 4, paragraph 2 for regulation 7A and Schedule A1 (claims by refugees).

(b) S.I. 1987/1967; regulation 21ZB was inserted by S.I. 2000/636.

**53B.** Any amount of income support to which a person is entitled by virtue of regulation 21ZB of the Income Support Regulations<sup>(a)</sup> (treatment of refugees) but only for a period of 52 weeks from the date that such an amount is received pursuant to that regulation.”.

**Persons from abroad**

4.—(1) Sub-paragraphs (2) to (5) apply where, in relation to a claim for income support, a social fund payment, housing benefit or council tax benefit, as the case may be, a person has submitted a claim for asylum on or before 2nd April 2000 and is notified that he has been recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967.

(2) Where this paragraph applies, the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations shall have effect, subject to sub-paragraph (3), as if—

(a) in Schedule A1<sup>(b)</sup> to both those Regulations—

(i) in paragraph 1, in sub-paragraph (1), for the words “his claim for housing benefit” to the end of the sub-paragraph, substitute “his claim for housing benefit shall be treated as having been made on whichever of the dates specified in sub-paragraph (2) applies in his case”;

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

“(2) A claim for housing benefit to which sub-paragraph (1) refers shall be treated as made—

(a) in the case of a claimant who made a claim for asylum upon arrival in the United Kingdom, on the date on which his claim for asylum was first refused by the Secretary of State or 5th February 1996 if that is later; or

(b) in the case of a claimant whose claim for asylum was made other than on arrival in the United Kingdom, on the date of that claim for asylum or 5th February 1996 if that is later.”;

(iii) for paragraph 2, substitute—

“2. —(1) A claim for housing benefit for the relevant period may be made to the relevant authority for the area in which the dwelling which the claimant occupied as his home was situate and in respect of which he was liable to make payments.

(2) Where the claimant has occupied more than one dwelling as his home in the relevant period, only one claim for housing benefit shall be made in respect of that period and shall be made to the relevant authority for the area in which the dwelling which he last occupied in that period was situate.

(3) The relevant authority to which a claim for housing benefit is made in accordance with this paragraph, shall determine the claimant’s entitlement to that benefit for the whole of the relevant period.

(4) A claim for housing benefit, to which this paragraph refers, shall be made—

(a) in the case of a claimant who was notified by the Secretary of State in the period from 24th July 1996 to 15th October 1996 that he had been recorded as a refugee, within 28 days of the later date;

(b) in any other case, within 28 days of a claimant being notified by the Secretary of State that he has been recorded as a refugee.

(5) Regulation 83(12) of these Regulations (backdating of claims) shall not have effect with respect to claims to which this Schedule applies.”;

(a) S.I. 1987/1967; regulation 21ZB was inserted by S.I.2000/636.

(b) See regulation 7 and Schedule 4, paragraph 3 for regulation 7A and Schedule A1 (claims by refugees).

## Sch. 4

<sup>1</sup>Paras. 4(2)(b), (c) & (4)(b) deleted by reg. 9 of S.I. 2008/3157 as from 5.1.09.

<sup>1</sup>◀

(3) In the Housing Benefit (State Pension Credit) Regulations, the reference to regulation 83(12) in paragraph 2(5) of Schedule 1A, as substituted by sub-paragraph (2) above, is a reference to regulation 64(13).

(4) Where this paragraph applies, the Council Tax Benefit Regulations and the Council Tax Benefit (State Pension Credit) Regulations shall have effect, subject to sub-paragraph (5), as if—

(a) in Schedule A1(a) to both those Regulations—

(i) in paragraph 1, in sub-paragraph (1), for the words “his claim for council tax benefit” to the end of the sub-paragraph, substitute “his claim for council tax benefit shall be treated as having been made on whichever of the dates specified in sub-paragraph (2) applies in his case”;

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

“(2) A claim for council tax benefit to which sub-paragraph (1) refers shall be treated as made—

(a) in the case of a claimant who made a claim for asylum upon arrival in the United Kingdom, on the date on which his claim for asylum was first refused by the Secretary of State or 5th February 1996 if that is later; or

(b) in the case of a claimant whose claim for asylum was made other than on arrival in the United Kingdom, on the date of that claim for asylum or 5th February 1996 if that is later.”;

(iii) for paragraph 2, substitute—

“2.—(1) A claim for council tax benefit for the relevant period may be made to the relevant authority for the area where the dwelling in which the claimant resided was situate and in respect of which he was liable for council tax.

(2) Where the claimant has resided in more than one such dwelling in the relevant period, only one claim for council tax benefit shall be made in respect of that period and shall be made to the relevant authority for the area in which the dwelling in which he last resided in that period was situate.

(3) The relevant authority to which a claim for council tax benefit is made in accordance with this paragraph, shall determine the claimant’s entitlement to that benefit for the whole of the relevant period.

(4) A claim for council tax benefit, to which this paragraph refers, shall be made—

(a) in the case of a claimant who was notified by the Secretary of State in the period from 24th July 1996 to 15th October 1996 that he had been recorded as a refugee, within 28 days of the later date;

(b) in any other case, within 28 days of a claimant being notified by the Secretary of State that he has been recorded as a refugee.

(5) Regulation 69(14) of these Regulations (backdating of claims) shall not have effect with respect to claims to which this Schedule applies.”

<sup>1</sup>◀

(5) In the Council Tax Benefit (State Pension Credit) Regulations, the reference to regulation 69(14) in paragraph 2(5) of Schedule 1A, as substituted by sub-paragraph (4) above, is a reference to regulation 53(13).

(a) See regulation 7 and Schedule 4, paragraph 2 for regulation 10A and Schedule A1 (claims by refugees).



**EXPLANATORY NOTE**

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

These Regulations make provision consequential on the coming into force of 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 (“the Consolidating Regulations”). Those Regulations replace the Housing Benefit (General) Regulations 1987, the Council Tax Benefit (General) Regulations 1992 and the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003, all of which are revoked in accordance with regulation 3.

Regulation 2 provides for the continuity of the law following the coming into force of the Consolidating Regulations.

Regulation 3 and Schedule 1 provide for the revocation of all Regulations included in the Consolidating Regulations together with those regulations relating to housing benefit and council tax benefit which are spent or are continued in force in these Regulations.

Regulation 4 provides that documents made, served or issued after the coming into force of the Consolidating Regulations but which contain references to regulations revoked by these Regulations are to be construed as referring to the corresponding provision of the Consolidating Regulations.

Regulations 5 and Schedule 2 contain amendments to other Instruments which are consequential on the coming into force of the Consolidating Regulations.

Regulation 6 and Schedule 3 contain savings and transitional provisions which are carried forward from Regulations revoked by these Regulations.

Regulation 7 and Schedule 4 contain transitory provisions which apply for a limited period.