

EXPLANATORY MEMORANDUM TO
THE HOUSING BENEFIT AND COUNCIL TAX BENEFIT (AMENDMENT)
REGULATIONS 2006

2006 No. 2813

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 These amendments will allow an authority to modify the Housing Benefit and Council Tax Benefit schemes by disregarding, when determining a person's income (whether he is the occupier of the dwelling or any other person whose income falls to be aggregated with that of the occupier of the dwelling), the whole or any part of any payment made under article 14(1)(b) or 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Background**
 - 4.1 The main local scheme is prescribed in the Social Security Administration Act 1992 s134(8)(a) and s139(6)(a). It enables local authorities to modify their Housing Benefit and Council Tax Benefit Schemes by resolution.
 - 4.2 In April 2005, the Ministry of Defence replaced their Occupational Pension Scheme and War Pension Scheme with the new Armed Forces and Reserve Forces (Compensation Scheme) (AFCS). The new scheme is both an occupational pension scheme and a compensation scheme where injury or death is attributable to service.
 - 4.3 Those parts of the scheme that equate to the old War Widows/Widowers Pension and War Disablement Pension are defined in the Housing Benefit and Council Tax Benefit Regulations as "guaranteed income stream payments"(GIS).
 - 4.4 The intention has always been to include the AFCS in the local schemes by way of primary legislation. However, as the amending provisions are included within the Welfare Reform Bill it is not feasible to do this until 2007 at the earliest. In view of this Ministers have agreed to enable local authorities to disregard the GIS payments, should they wish to do so, by way of Regulation.
5. **Extent**
 - 5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 Housing Benefit (HB) and Council Tax Benefit (CTB) are income-related benefits intended to help people meet their rental costs or council tax liability, respectively. The benefits are payable to people who are on a low income (“low” being determined by their personal and family circumstances) and can be paid to people whether or not they are in remunerative work.
- 7.2 Although HB and CTB are social security benefits they are administered on behalf of the Department for Work and Pensions by local authorities.
- 7.3 When calculating entitlement to Housing Benefit and Council Tax Benefit all income is taken into account with few exceptions. Currently within Housing Benefit and Council Tax Benefit schemes, the “old” War Widows/Widowers (WWP) Pension and War Disablement Pension (WDP) are one of these exceptions and are subject to two main disregards.
- 7.4 First, a mandatory disregard of £10 per week. This disregard applies across all income related benefits and has already been extended to include the GIS payments; and
- 7.5 Second, a discretionary disregard under which local authorities may, should they resolve to do so, disregard some or all of the remainder of any WDP or WWP when assessing entitlement to HB/CTB.
- 7.6 The inclusion of the new Armed Forces and Reserve Forces Compensation Scheme within the discretionary powers of the local authorities does not alter the original policy intention in any way and ensures that both the new and old schemes are treated in the same manner

Consultation

- 7.7 The Local Authority Associations were consulted and raised no issues with the Regulations. The Social Security Advisory Committee confirmed that they did not wish to have the Regulations formally referred.

Guidance

- 7.8 Local Authorities, who administer claims for Housing Benefit and Council Tax Benefit on behalf of the Department for Work and Pensions, will receive guidance in the form of an Administration Circular, an “A” circular, when the Regulations have been laid.
- 7.9 The guidance will ensure local authorities are aware that they may now include the relevant payments in their discretionary schemes. Members of the public who

make a claim for Housing Benefit or Council Tax Benefit will find that local authorities will take any steps that may be necessary to disregard the payments.

7.10 Both the Statutory Instrument and the A circular will be placed on the DWP website so that it is available to local authorities and any interested party.

Consolidation

7.11 The DWP have only recently conducted an exercise to consolidate the Housing Benefit and Council Tax Benefit Regulations. The consolidated regulations came into force on 6th March 2006. There are, therefore, no plans to carry out a further exercise in the near future. However, an informal consolidated text will be available on the DWP website approximately three to four months after the regulations come into force.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for these instruments as they have no impact on business, charities or voluntary bodies.

8.2 In connection with the impact on the public sector, there are no significant benefit costs. Changes to publications etc can be made as those items are updated in the usual course of events.

9. Contact

9.1 Gail Knowles at the Department for Work and Pensions can answer any questions regarding this instrument. Contact details are: telephone number 020 7962 8295; email Gail.Knowles@DWP.gsi.gov.uk