

EXPLANATORY MEMORANDUM TO
THE HOUSING BENEFIT
AND COUNCIL TAX BENEFIT (AMENDMENT) REGULATIONS 2008

2008 No. 2299

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 regulations amend the existing regulations that deal with Housing Benefit and Council Tax Benefit for both working age people and pensioners.

2.2 The effect of these regulations will be to allow customers to make a telephone claim for Housing and Council Tax Benefit alongside a telephone claim for Pension Credit, Income Support, Jobseeker's Allowance, Incapacity Benefit or Employment and Support Allowance. There will be no need for the customer to complete or sign a claim form for their Housing or Council Tax Benefit, and their details will be automatically sent on to the relevant local authority for processing.

2.3 These regulations also make some minor amendments to remove references to the now defunct 'ONE' pilots and gateway offices (which were withdrawn as Jobcentre Plus was rolled-out); correct some references which were mistakenly omitted from previous regulations; and clarify that authorities working in partnership with each other must share information with each other to allow the process of administering housing benefit and council tax benefit to succeed.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Background

4.1 As part of ongoing improvements in customer service and simplifying access to benefits the Department has been developing telephone-based (teleclaim) methods of claiming benefit. Existing legislation already allows local authorities to offer this service direct to their customers for Housing and Council Tax Benefit purposes.

4.2 However the majority of Housing and Council Tax Benefit claims are currently made via DWP alongside claims for Pension Credit, Income Support, Jobseekers Allowance or Incapacity Benefit. All of these benefits are currently claimed by a clerical process, where the Housing Benefit and Council Tax Benefit claim is made in writing.

4.3 These regulations amend the current legislation so as to allow that where the DWP benefit claim is made as a teleclaim, the Housing and Council Tax Benefit claim can be made using the same process.

4.4 These regulations also make provision for a teleclaim service to be provided for Housing and Council Tax Benefit by the Department where a change of circumstances, such as a change of address, is being reported.

4.5 As with the teleclaims provisions for local authorities, these regulations will further allow the Department to:

- require the claimant to approve a statement confirming the details provided before the claim becomes a valid claim,
- require the claimant to submit further information required to complete the claim,
- accept amendments to the claim or a withdrawal of the claim.

4.6 The date of the customer's first contact will be treated as the date the customer's claim is made provided they make a claim within one month, as would be the case for a clerical claim. Where further information is requested by DWP or the customer is asked to approve a statement, the local authority will not need to duplicate that request.

4.7 These regulations make additional minor amendments to the Housing Benefit and Council Tax Benefit regulations:

i. The first of these involves the deletion of all references to 'ONE' and gateway offices. These types of offices were part of a joint working pilot between DWP and local authorities which have since been replaced by Jobcentre Plus. As this pilot is no longer in place these references are no longer required and so we are taking this opportunity to delete them;

ii The second change relates to the criminal offence imposed on landlords or their agents who fail to supply information required by the local authority. This regulation should have been amended in line with the primary power from which it derives but was not included in those amendments. We are therefore correcting this omission by linking the offence back to that primary power;

iii. The third change relates to local authority powers to exercise each other's Housing and Council Tax Benefit functions. As with any partnership, information sharing is required to enable joint working, but current legislation isn't specific on this point. We are therefore inserting a new regulation that will require local authorities involved in partnership working or where one is exercising the other's functions to share the Housing and Council Tax Benefit information necessary to conduct that work, so that this matter is put beyond doubt.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

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

7. Policy background

7.1 These regulations introduce customer improvements as part of the Department's ongoing agenda to simplify Housing and Council Tax Benefit claims for our customers. The way in which claims are made has changed gradually over the last ten years. The Department initially designed and introduced a full Housing and Council Tax Benefit claim form for use alongside claims to Income Support and Jobseekers Allowance to remove the need for our customers to receive a separate form from their local authority. With the introduction of Pension Credit a shortened pensioner-specific claim form was introduced. Although an improvement, this still involved customers having to duplicate the information required on two separate forms.

7.2 Legislation was later introduced to allow Housing and Council Tax Benefit to be claimed on a combined claim form with DWP benefits, with this process originally being introduced for working age customers claiming Income Support, Incapacity Benefit or Jobseekers Allowance.

7.3 For pensioners the claim form was further streamlined with the introduction of a three- page claim form that is completed by The Pension, Disability and Carers Service and issued to the pensioner to check, sign and return to the local authority. There is a need for further supplementary forms to be completed, where the pensioner has non dependants in the household, or dependent children.

7.4 For claims made direct to the local authority, legislation was introduced in April 2008, allowing the authority to offer telephone or electronic claims for Housing and Council Tax Benefit.

7.5 As part of this ongoing programme of work the Department intends to further improve the claims process for pensioners by providing a combined teleclaim for Pension Credit, Housing Benefit and Council Tax Benefit from October 2008. As claims for Pension Credit are made over the telephone this improvement requires amendment of existing Housing Benefit and Council Tax Benefit legislation to specify that a telephone call to the Department can be treated as a valid claim.

7.6 To enable this service to be extended to other benefits in the future the Department is also introducing a provision which will allow claims for Housing and Council Tax Benefit that are combined with other DWP benefits, to be made by telephone where that service is being offered for the DWP benefit. We intend to initially introduce this telephone service towards the end of 2009 for claims made jointly with claims for Employment and Support Allowance.

7.7 Consultation

The Local Authority Associations were consulted and have no objections.

7.8 Guidance

Any necessary guidance on these Regulations will be provided to decision-makers as soon as possible.

7.9 Consolidation

It is not intended to consolidate the relevant regulations. A consolidated text will in due course be available online via the DWP website at <http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/>. It is accessible to the public free of charge.

8. Impact

8.1 A full impact assessment has not been published for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There is a small impact on departmental costs, but this is offset by savings in other areas. The new process will involve some extra work by Pensions Service staff, however these costs would be offset by savings in other areas such as those for printing and posting clerical forms. There will be an increase in AME expenditure as a result of increased take up of HB/CTB. However this is being funded by other measures which form part of a package of simplification measures and has Treasury approval.

9. Contact

Carol Foster-Middleton at the Department of Work and Pensions (telephone number 020 7712 2377, email address carol.foster-middleton@dwp.gsi.gov.uk) can answer any queries regarding the instrument.