



4 April 2008

## PRESS RELEASE

### **CONSULTATION: THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS) (No...) REGULATIONS 2008**

The Social Security Advisory Committee (SSAC) has been asked by the Secretary of State for Work and Pensions to consider proposals for the above named regulations. These proposals would have the effect of:

- Reducing the time limit for pensioners to claim Pension Credit, Housing Benefit (HB) and Council Tax Benefit (CTB) from 12 to 3 months;
- Reducing the backdating period for HB/CTB customers of working age from 12 to 3 months; and
- Allowing Pension Credit to be retained for up to 13 weeks of a temporary absence abroad.

Before the Committee considers and reports on these proposals, it would like to hear from organisations and individuals who have views. Those wishing to make representations to the Committee may obtain copies of the Department's explanatory memorandum and draft regulations from the SSAC website: [www.ssac.org.uk](http://www.ssac.org.uk) or from the Committee Secretariat (contact Natalie Harwood on 0207 412 1508).

The Committee has requested further information from the Department in connection with these proposals, and it is anticipated that this will be made available by 11 April. The information will be published on the SSAC website, in the form of a supplementary explanatory memorandum.

Representations should be sent to the Committee at New Court, 48 Carey Street, London, WC2A 2LS, or by email to [ssac@dpw.gsi.gov.uk](mailto:ssac@dpw.gsi.gov.uk), or via the consultation response facility on the website, to arrive no later than Monday 5 May 2008.

**Note for Editors:**

*The SSAC is the main UK advisory body for all social security matters except those relating to industrial injuries, war pensions, occupational pensions, and National Insurance contributions. Most proposals for social security regulations have to be submitted to the SSAC before they are made. When the Committee reports on regulations, the report is laid before Parliament with the regulations and a statement from the Secretary of State responding to any recommendations the Committee has made.*

Ms Gill Saunders  
Secretary  
Social Security Advisory Committee  
New Court  
48 Carey Street  
London WC2A 2LS

## **The Social Security (Miscellaneous Amendment) (No. 2?) Regulations 2008**

Dear Ms Saunders

I am writing to inform you that the Secretary of State for Work and Pensions proposes to introduce regulations to take effect from 6<sup>th</sup> October 2008. These regulations will amend the:

- Social Security (Claims and Payments) Regulations 1987
- State Pension Credit Regulations 2002
- Housing Benefit Regulations 2006
- Council Tax Benefit Regulations 2006
- Housing Benefit (Persons who have attained the qualifying age for State Pension Credit) Regulations 2006
- Council Tax benefit (Persons who have attained the qualifying age for State Pension Credit) Regulations 2006

I attach a note explaining the proposals and outlining the legislation to be amended. Draft Regulations are provided as an annex. Whilst minor amendments may still be necessary to clarify or improve the wording, the substance will not change. These regulations provide for the time for claiming Pension Credit, Housing Benefit (HB) and Council Tax Benefit (CTB) for pensioners to be reduced from 12 to 3 months, the backdating period for HB/CTB for working age customers to be reduced from 52 weeks to 3 months, and for the period for which entitlement to Pension Credit may be retained whilst absent from Great Britain to be increased to 13 weeks.

The Committee is asked to consider the Regulations on the basis of these proposals. Also, the Committee is asked to consider whether reference of the regulations is required.

Formal consultation with the Local Authority Associations will be taking place in relation to the changes to the Housing Benefit and Council Tax Benefit changes.

The Committee will wish to note that Ministers have contacted colleagues in Northern Ireland to ensure that they are aware of the proposals and to co-

ordinate administrative timetables. Please let me know if the Committee require any further information.

I would be grateful if the Committee could consider this matter at their April 2008 meeting.

Paul Needham  
State Pension Division  
Room 2W60  
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Leeds

## **SSAC Explanatory Memorandum**

### **Proposal**

1. The Secretary of State for Work and Pensions proposes the following amendments to regulations:
  - to reduce the time for claiming Pension Credit, Housing Benefit and Council Tax Benefit for persons who have attained the qualifying age for Pension Credit from the current 12 months, to a period of 3 months;
  - to reduce the backdating period in Housing Benefit (HB) and Council Tax Benefit (CTB) from the current 52 weeks to 3 months for those who have not attained the qualifying age for Pension Credit;
  - to allow Pension Credit recipients to retain entitlement whilst temporarily absent from Great Britain for up to 13 weeks.

These proposals were announced by MoS PR on 5<sup>th</sup> December 2007, and are part of an overall package of measures.

### **Overall package**

2. The Department has for some time recognised that there is a need to simplify the benefit system. The proposals outlined in this memorandum are part of an overall package which attempts to improve the benefit process and simplify certain rules, particularly, but not exclusively, in relation to benefits paid to pensioners.
3. With this package of proposals, the Department believes it has struck the right balance between changes which generate some savings, and those which attract a cost. This is a balance that is appropriate to the current fiscal climate, and helps to ensure that the whole of this important and beneficial package can be taken forward.
4. Taken together, the measures represent an overall improvement to the benefit system for customers and staff. In particular, these measures will improve the claims process for HB/CTB, so that claims can be made over the phone, at the same time as the claim for Pension Credit, without the need to return a signed claim form, and will reduce intrusion for those aged 80 or over by allowing the Pension Credit Assessed income period (AIP) to continue automatically after that age so that changes to savings and retirement income that would normally result in a reduction of Pension Credit need not be reported. In addition, and recognising the concerns

raised by Age Concern and others, this package will introduce a change to allow Pension Credit to be retained for up to 13 weeks of a temporary absence abroad.

5. Important beneficial measures such as the AIP run on and the improved claims process for HB/CTB can only be delivered if we also make savings elsewhere. The proposals to reduce the time for claiming and backdating periods, which are desirable from a policy and operational perspective for the reasons outlined below, also enable the release of funding, without penalising any existing claimants, and in the case of Pension Credit and HB/CTB for pensioners by simply changing the time for claiming to what it would have been had the regulation not been amended in 2004 to allow 12 months.
6. The AIP run on requires a change to primary legislation and is included in the current Pension Bill, and the changes in relation to the improved HB/CTB claims process are in a separate statutory instrument, which will be presented to the Committee in due course. The other changes require amendments to secondary legislation, which will be subject to the negative resolution procedure, and these changes along with the rationale for them are described in more detail below.

## **Changes to the time for claiming Pension Credit**

### Background

7. Pension Credit was introduced on 6<sup>th</sup> October 2003. It replaced Income Support for those aged 60 and over. On its introduction, the normal time for claiming was to be 3 months. However, a transitional rule allowed those claims made up to 5<sup>th</sup> October 2004 to be treated as made on either the 6<sup>th</sup> October 2003 (if the conditions of entitlement were satisfied on that day), or the day on which the conditions of entitlement were satisfied, if this was after 6<sup>th</sup> October. Effectively this meant that Pension Credit claims could potentially be “backdated” for periods of up to 12 months during the first year of its introduction (so that for example a person claiming on 5<sup>th</sup> October 2004, who could show that they would have had entitlement on 6<sup>th</sup> October 2003 would have had their claim treated as made on that date).
8. The original intention was that from October 2004, the time for claiming Pension Credit would revert to 3 months. However, this reversion to a 3 month period did not take place as regulations were amended from 6<sup>th</sup> October 2004 so that the normal time allowed for claiming Pension Credit would be 12 months.
9. The rationale for setting 12 months as the normal time period for claiming Pension Credit was to align the time for claiming Pension Credit and State

Pension (the time for claiming State Pension was to increase to 12 months from April 2005 with the introduction of the new State Pension deferral rules). The increase to a period of 12 months for claiming Pension Credit was also attractive in that it removed a potential “cliff edge” of claimants who would claim after 5<sup>th</sup> October 2004 at a time when Pension Credit was still a relatively new benefit and eligibility not widely understood. It ensured that no potential recipient need lose out due to simply being previously unaware of the benefit. It was also believed that the potential for some claimants to receive up to 12 months arrears of benefit could act as an incentive to make a claim and supported the ongoing take up campaign.

### Current position

10. Although on the face of it the 12 months appears beneficial to customers, operational experience has shown that, unlike State Pension which is a contributory benefit, the ability to effectively “backdate” a means tested benefit such as Pension Credit for up to 12 months causes a number of problems, leading to delays in payments, intrusion and confusion for customers and error in awards of benefit.

11. For example:

- Where a claimant requests that their claim should begin from a date up to 12 months prior to when they make contact with the Department, it is necessary to establish not just their current circumstances, but also what their circumstances were during the previous 12 months.
- The longer the time lapse between the date the claimant makes their claim and the date from which they want the claim to begin, the more difficult it is to obtain the necessary evidence upon which to base the award.
- Some claimants (particularly some of the more elderly) simply cannot remember with any accuracy what their circumstances were, and some have difficulty locating any documentation required by the Department.
- Where such evidence or documentation is supplied, it is then for the person deciding the claim to consider this evidence and assess the award accordingly. Where there have been several changes of circumstances in the past period this process is complex and open to error.

12. The current time for claiming can result in decision makers carrying out a detailed investigation into the claimant’s financial circumstances over the previous 12 months. This involves reviewing their financial position in detail

to identify and verify all changes over that time to establish both eligibility and the correct level of benefit during that time and now. This can in some cases lead to a poor experience for those claiming (who will be asked to provide evidence of their financial circumstances for the past year) and cause difficulties for decision makers in terms of information and evidence gathering in order to establish eligibility for the whole of the past period. The Department therefore recognises that the original policy, whilst being adopted for the good reasons described above, had not taken sufficient regard of its practical application in the context of means tested benefits.

### The proposed change

13. In view of the above, the Department proposes to reduce the time for claiming Pension Credit from 12 months to the originally intended 3 months. This period is broadly in line with the time for claiming a number of other benefits such as Income Support and Incapacity Benefit, although unlike the time for claiming Income Support, the claimant under these proposals will not need to demonstrate the reasons why he claimed late. Under this proposal claimants will have 3 months from the time they would have been entitled in which to make their claim and ensure the award begins from the date of entitlement.
14. Other options for overcoming some of the difficulties of having a 12 month time for claiming a means tested benefit have been discounted. For example the idea of simply using the current information provided by claimants as a basis for the award over the previous 12 months, is not acceptable in terms of an income related benefit, where entitlement is calculated on a weekly basis.
15. The Department recognises that this change will mean that the time for claiming Pension Credit and State Pension will be different. However, whilst it was considered that alignment of the time for claiming these benefits would be desirable in terms of having a simple rule applicable to both benefits, operational experience of The Pension Service has shown that any gains in this area are outweighed by the considerable complexity and added intrusion of allowing a lengthy period for claiming an income related benefit such as Pension Credit. On balance, the Department believes that reducing the period for claiming Pension Credit from 12 to 3 months strikes the correct balance between reducing complexity, and allowing a reasonably generous period of time to make a claim.

### Impact on claimants

16. This change will have no impact on existing Pension Credit claimants. From 6<sup>th</sup> October 2008, new claimants will no longer have 12 months to make

their claim and will instead have 3 months to claim from the date on which they are entitled to benefit.

17. Although this measure may be seen as adversely affecting some new claimants (paragraphs 52 to 61 refer in relation to the potential effects on different groups), the Department considers that whilst there were sound reasons for allowing a 12 month period to claim for the 4 years following the introduction of Pension Credit, the time is right to move to a period of 3 months, which is a more appropriate period for an income related benefit.
18. The Department is confident that everyone who currently may have a potential entitlement to Pension Credit has now been contacted by TPS and have had every opportunity to make a claim. Most eligible non-recipients have been contacted numerous times, in a variety of ways, with over 75% of eligible non-recipients having been contacted 5 times or more already. Take-up levels show that up to 81% of those entitled to the Guarantee Credit element of Pension Credit are claiming it.
19. The Department considers that 4 years after its introduction, Pension Credit is no longer a new benefit, and extensive marketing has taken place over those 4 years to publicise it and encourage take-up. For example, the Department has used data matching to identify those who may be entitled and not claiming and has written to every pensioner household to tell them about Pension Credit. In 2007/08 the Department will issue over 1 million mailings to encourage and remind potential claimants to claim and will use inserts aimed at securing the support of friends and family to encourage people to claim in areas with potentially high numbers of eligible customers, in addition to national press advertising, local marketing and media activity.
20. Four years on, the Department believes that the vast majority of potential claimants will be aware of Pension Credit and therefore wishes to change focus so that claimants apply for the benefit nearer to when they become eligible, rather than up to 12 months later. The Department considers that this period is justified on the basis that the time for claiming a number of other social security benefits, including those for the disabled such as Incapacity Benefit and the forthcoming Employment and Support Allowance, is also 3 months, and is more generous in this respect than other benefits for disabled people such as Attendance Allowance and Disability Living Allowance.
21. Steps have been taken to simplify the claims process, promote awareness and encourage take-up. In recognition that there may still be some who are unaware of their potential entitlement to Pension Credit, the Department intends to continue to promote take-up of benefits by those entitled and will continue to use data matching as described above to identify those eligible to, but not claiming Pension Credit. Help in claiming is also provided for

vulnerable customers through home visits. The Department will work closely with customer organisations such as Age Concern and Help the Aged to ensure that potential customers are aware of the new rules. The change to 3 months will also be included in any planned take-up activity, giving those who may currently have entitlement for a past period and who have not yet claimed, the opportunity to do so before the rules change. Literature for claimants is written to plain English standards and to the standards set by RNIB. If a customer needs the literature in an alternative language/format The Pension Service will arrange for this to happen. Customer literature also signposts our website that can allow access to customers whose first language is not English

### **Changes to the time for claiming Housing Benefit and Council Tax Benefit**

- i) persons who have attained the qualifying age for Pension Credit**
- ii) persons below the qualifying age for Pension Credit**

#### Background – persons having attained the qualifying age for Pension Credit

22. As with Pension Credit, the Housing Benefit (HB) and Council Tax Benefit (CTB) regulations for people who have attained the qualifying age for Pension Credit contain a provision that allows the customer 12 months in which to make their claim.
23. These provisions were originally introduced as a transitional rule to allow those claims made up to 5th October 2004 to be treated as made on the 6th October 2003 (if the conditions of entitlement were satisfied on that day) or the day on which the conditions of entitlement were satisfied, if this was after 6th October. This was introduced to mirror Pension Credit rules and maintain a consistent approach for pensioners to the period for claiming income related benefits.
24. The intention was to maintain the link between the HB and CTB rules and the Pension Credit rules, and that the 12 month claim period for pensioners would be reduced to 3 months from October 2004, as was originally planned for Pension Credit.
25. When the decision was taken to keep the initial 12 month claim period in Pension Credit beyond October 2004, HB and CTB were similarly amended, to reflect the policy intention of alignment in the pension age income related benefits.

#### Current position

26. The 12-month pensioner claims provision in HB and CTB has raised the same issues as those experienced with Pension Credit, in that the ability to effectively “backdate” entitlement for up to 12 months causes problems, leading to delays in payments, intrusion for customers and errors in the benefit.

#### The proposed change

27. In view of the above, and to maintain alignment of HB and CTB provisions with Pension Credit and help provide a more consistent benefit regime in general, the Department proposes to reduce the time for pension age customers to claim HB and CTB from 12 months to 3 months in line with Pension Credit proposals.

#### Impact on claimants

28. This change will have no impact on existing HB and CTB claimants. From 6th October 2008, pensioners making new claims will no longer have 12 months to make their claim, but will instead have 3 months.

29. The 12 month claim provision for pensioners was introduced to reflect the provision in place in Pension Credit to provide a consistent process for our customers, and so it follows that any changes to the rules in Pension Credit should be mirrored in HB and CTB, for the same reasons.

30. Reducing the ‘blanket’ 12 month claim period to 3 months will allow us to refocus resources on the poorest pensioners by providing improved access to HB and CTB for Pension Credit claimants which will make it simpler and easier for them to claim. The existing combined claim process means that Pension Service staff complete a short form for HB/CTB on the customer’s behalf, which the customer has to check, sign, and send to the local authority. Blank supplementary forms are also issued for customers with children, non dependants or a private rent liability.

31. Despite this simple process, only around 50% of customers send their forms in and so those who do not return their forms are potentially missing out on their entitlement. Reasons customers gave for the non-return of the forms were varied, but there were a large number which were due to the claims process, which included:

- the claims process was complicated;
- completing supplementary claim forms was difficult and very time consuming;
- they were too busy to return the forms;
- they did not recall receiving the form;
- it was not clear that they had to return the form to the LA.

32. Having identified that the current process is not working as effectively as it should, we will make improvements so that from October 2008, CTB and HB claims will continue to be taken over the telephone by The Pension Service when people apply for Pension Credit, but there will be no need for a claim form or supplementary forms in respect of children and non-dependants. The information collected will automatically be sent directly to local authorities for assessment and so 100% of claims made in this way will reach the local authorities. This means customers with potential entitlement to pension age HB/CTB will be captured at the earliest opportunity, reducing the need for “backdating” and ensuring they do not miss out on entitlement.

Background – persons below the qualifying age for Pension Credit

33. Additionally for HB and CTB generally, provisions have existed from their introduction (1988 and 1992 respectively) which allowed a customer to claim up to 52 weeks backdating where they could show continuous good cause for not having made a claim earlier. This rule currently applies to ‘working age’ claimants (ie. those who have not attained the qualifying age for Pension Credit).

34. Similar issues in establishing the customer's circumstances have always occurred with the general 52-week backdating provision. Additionally, customers have had difficulty proving continuous good cause for such a length of time and providing evidence of their circumstances for a past period of up to a year.
35. The existing provisions also cause confusion for claimants and staff, and can result in local authorities carrying out a detailed investigation into the claimant's financial circumstances over the previous 12 months. This is intrusive as well as causing difficulties for decision makers.
36. In view of the above, and to maintain alignment of HB and CTB provisions with other benefits and help provide a simpler consistent benefit regime in general, the Department proposes to reduce the maximum backdating period in working age HB and CTB from 52 weeks to 3 months. This aligns with the maximum 3 month backdating provisions in place across other working age benefits including Income Support, Jobseekers Allowance, Tax Credits and the forthcoming Employment and Support Allowance (ESA).

#### Impact on claimants

37. This change will have no impact on existing working age HB and CTB claimants. From 6th October 2008, working age customers making a new claim will only be able to apply for a maximum of 3 months' backdating rather than 52 weeks.
38. For the working age provisions, it has always been the Department's intention to align rules where possible to simplify the benefit system in general. In the last 10 years we have improved access by ensuring that a full claim to HB and CTB can be made alongside DWP income related benefits, for example Income Support and Jobseeker's Allowance, usually in a combined claim process.
39. We have further extended this to:
- allow claims to be made through a combined process alongside certain non means-tested benefits such as Incapacity Benefit;
  - introduce 'first contact' rules allowing HB/CTB claims to be paid from the date a customer asks for a claim form, rather than from the date the claim form was received back at the LA; and
  - enable alternative ways of claiming, including by telephone thus ensuring our customers can gain access to HB and CTB quickly and simply.
40. It is also the intention to introduce new HB/CTB claims rules which will mirror the pensioner process for ESA customers (once ESA is established) so that CTB and HB claims being taken over the phone by Jobcentre Plus

can also be sent directly to local authorities for assessment. This means customers with potential entitlement to working age HB/CTB will be captured at the earliest opportunity, reducing the need for “backdating” and ensuring they do not miss out on their entitlement.

41. While the change in the backdating provision from 52 weeks to 3 months may be seen as adversely affecting new claimants, the Department considers that the need to simplify the benefit system (both for the understanding of our customers, as well as simplifying administrative processes), supported by the developments made to ease the claiming process, and improve accessibility, justifies this change. The change should also help to encourage claimants to take more responsibility for their housing costs at an earlier stage and encourage landlords and Local Authorities to fulfil their responsibilities to collect rent/council tax and take prompt action when arrears accrue.
42. In allowing 3 months’ backdating, in line with other income related benefits, we will provide a consistent time limit across income related benefits, which will still allow vulnerable customers facing eviction processes (triggered when 8 weeks’ rent arrears exist) to make a claim and receive backdated benefit to meet their rent due. As stated above, existing provisions protect the date of claim from the point of first contact. There are also provisions for a “payment on account” of HB to be made where there is a delay in deciding the claim which is not due to the customer’s failure to provide information or evidence relating to their claim, to ensure that delays in benefit processing do not cause customers to lose their accommodation. Our planned publicity to landlords (and others) will emphasise the need for them to ask questions about non payment of rent earlier and encourage tenants to make their claims sooner rather than later.

## **Pension Credit - Temporary Absence from Great Britain**

### Background

43. A condition of entitlement to Pension Credit is that the claimant must be in Great Britain (GB). There are, however, circumstances in which claimant’s may retain their entitlement to Pension Credit during temporary absences from GB.
44. The current rules regarding temporary absence were carried forward from Income Support, which in turn had adopted the rule from Supplementary Benefit. Under the current rules claimants may retain entitlement to Pension Credit for up to 4 weeks where the absence is not likely to exceed 52 weeks and where there was entitlement to Pension Credit immediately prior to the absence. Entitlement may be retained for up to 8 weeks where the purpose of the absence is to accompany a young person who normally

resides with the claimant, for medical treatment abroad.

45. If a claimant reports that an absence is likely to exceed these periods, their claim is closed after the first 4 weeks of their temporary absence (or 8 where the absence is to accompany a young person for medical treatment abroad). On return to GB after such an absence, a new claim for Pension Credit must be made.
46. The 4 week period originally adopted for Supplementary Benefit was based upon an estimate made at the time that the period would cover the majority of temporary absences from GB for those in receipt of that Benefit. The 8 week rule for customers accompanying children abroad for medical treatment was introduced for Income Support in 1990. Housing Benefit and Council Tax Benefit (HB/CTB) also have rules regarding temporary absence (from the dwelling normally occupied as the home): customers in receipt of these benefits may normally retain entitlement for up to 13 weeks whilst temporarily absent from the home.

#### Proposed change

47. The proposed change is to extend the period for which entitlement to Pension Credit may be retained during a temporary absence abroad of up to 13 weeks. The Department considers that a single maximum period of 13 weeks is the appropriate length of time for which Pension Credit recipients should be able to retain entitlement whilst temporarily abroad.
48. The current absence abroad rules were originally designed to reflect the needs and behaviour of a particular client group at a particular point in time (i.e. Supplementary Benefit claimants, almost 25 years ago). It is now apparent that the rationale for retaining those rules in Pension Credit no longer applies. In addition to social and economic changes since 1980, the introduction of the more generous benefit regime of Pension Credit means that more people are eligible to claim Pension Credit than the old Minimum Income Guarantee (MIG). Pension Credit customers are more likely to have modest savings, and the rules regarding the deprivation of such savings in Pension Credit are more lenient.
49. Research conducted on behalf of the DWP<sup>1</sup> highlighted the desire amongst older people for a simpler benefit system. The difference in the length of time for which Pension Credit can be paid during a period of temporary absence abroad can be confusing for Pension Credit customers who are also in receipt of Housing benefit and Council Tax Benefit (which normally allow temporary absences from the home for up to 13 weeks). Research carried out for the Department and a recent campaign by Age Concern have

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<sup>1</sup> Helen Barnard & Nick Pettigrew, "Delivering benefits and services for black and minority ethnic older people", DWP Research Report 201, 2003 p.51

highlighted a feeling among claimants that the current rules are too restricted.

50. Increasing the period to a single maximum of 13 weeks will enable the majority of these claimants to be temporarily absent from GB without having to make a new claim for the benefit on their return to GB and will simplify the benefit for both claimants and the Pension Service
51. Taking account of the above factors, the Department believes that it is right to change the rules on the length of time for which customers may retain entitlement to Pension Credit whilst temporarily absent abroad.

## **Diversity and equality**

### Time for claiming/Backdating

52. The Department has considered these changes in light of its disability, race and gender equality duties. A full Equality Impact Assessment has been carried out. It has been identified that the changes to the time for claiming (for Pension Credit and HB/CTB for pensioners) and backdating (for working age HB/CTB) may have a negative effect for some new claimants.
53. The impact assessment will be published shortly, but is attached for the Committee's information.
54. The proposed time for claiming/backdating period of 3 months is broadly in line with the time allowed for claiming most other social security benefits (including those for disabled people such as income support, Incapacity Benefit and the forthcoming Employment and Support Allowance) and as such the Department considers that these changes are reasonable, particularly bearing in mind the simultaneous improvements to the HB/CTB claims processes, and the improvements to the process for claiming Pension Credit which have already been made since its introduction.
55. It is recognised that whilst the potential negative impact of these changes affects all new claimants, the impact could be greater for older customers and marginally greater for some disabled customers. This is because such customers may not always be in a position to make their claims on time, perhaps because they may not be aware of the benefits existence due to mental health or language problems, or may not be able to make a claim on time due to physical disabilities.
56. The Department considers that such impacts are minimised for potential Pension Credit claimants by take-up and awareness activity and the help provided to enable people to claim. In particular, the use of data matching to identify those eligible, home visits to vulnerable customers, and changes

to make the claiming process simpler will ensure customers do not need to delay claiming if they think they are entitled. Prior to October 2008, leaflets (available in many different languages) will be amended to explain the new rules so that those claimants who may have entitlement from more than 3 months ago are aware that they should claim before 6<sup>th</sup> October 2008. The Department will also continue to work closely with ethnic minority groups to improve take-up and ensure people are aware of the new rules.

57. Additionally, Local Partnership agreements are either in place or approaching completion with all 203 primary tier Local Authorities and surrounding voluntary sector organisations to provide a single point of access to social care and benefit entitlement. This provides access to some of the most vulnerable pensioners, many of whom have never applied for any entitlement, and may not be aware of what is available or how to claim.
58. The Department has also set up Alternative Offices (which allow Local Authorities and voluntary organisations to accept claims from people aged 60 or over for Social Security benefits, or a person under 60 for benefits from Disability and Carers Service), together with community based Information Points (formerly known as surgeries) in places that customers are familiar with, such as Age Concern, Citizens Advice and voluntary sector organisations, providing access for some of the most vulnerable pensioners.
59. The Pension Service has an outline campaign plan for 2008/09, which moves towards a targeted local approach. This will entail dividing our customer base into groups, defined by their characteristics and geography. Communications will be tailored to each customer group depending on their needs and will combine indirect/endorsed communication channels such as press releases, editorials, presence at local events and local radio with direct communications from The Pension Service as a follow up. As stated earlier, the Department will work closely with Age Concern and Help the Aged on the benefit take-up campaign to highlight the backdating changes. All current and future materials issued to claimants will advise of the change of rules.
60. Similarly for HB/CTB, the Department considers that the impacts of these changes are minimised by the past and future improvements in access to the benefits described above (some of which are an integral part of this package of measures and have only been made possible because of the changes to the backdating rules), which will help ensure that people with potential entitlement are able to claim promptly due to a more automatic claims process, reducing in turn the need for backdating. And while working age claimants will no longer be able to ask for their HB/CTB claim to be backdated for 52 weeks, this change will be well publicised to key stakeholders including landlords, welfare rights organisations, local authority

social services and “supporting people” staff, and front line DWP staff dealing with benefit claims, to help ensure that customers apply for their entitlement in good time; and to encourage landlords to tackle rent arrears before more than three months’ debt has accumulated.

61. The Department will continue to work closely with customer groups to assess the way these changes affect different groups.

### Temporary Absence

62. A screening exercise has been carried out in respect of potential race, disability, gender, age and sexual orientation impacts for this proposal. The Department considers that the change to extend the time for which Pension Credit may be retained during periods of temporary absence abroad is beneficial and would not discriminate unlawfully on grounds of race, disability, gender, age, sexual orientation and/or religious belief. This proposal may promote equality by allowing claimants to attend religious festivals abroad and by allowing extended visits to for claimants who may have relatives abroad. The stage 1 Diversity and Equality impact assessment for this proposal will be published in due course.

### **Child poverty**

63. It is not considered that the proposals in relation to Pension Credit would have an adverse effect on child poverty.
64. No assessment of the impact on child poverty of the HB/CTB changes for working age customers has been carried out as sufficient data for such an assessment is not currently available. We will carry out a child poverty assessment for future monitoring purposes once this data becomes available.

### **Simplification**

65. These measures, along with associated measures contained in the current Pensions Bill, are being introduced in order to simplify various aspects of the benefits system. Consequently these changes will reduce complexity.

### **Timing**

66. The Department proposes to bring these amendments into force from 6<sup>th</sup> October 2008.

## **Costs**

67. The Department does not anticipate that there will be additional costs as a result of the introduction of these measures.

## **Appendix**

### **Synopsis of the regulations**

#### **Regulation 1**

Provides the citation and the dates on which the regulations are to come into force.

#### **Regulation 2**

Amends regulation 19 and schedule 4 of the Claims and Payments Regulations 1987 to allow the time for claiming Pension Credit to be 3 months.

#### **Regulation 3**

Amends regulation 3 of the State Pension Credit Regulations to allow entitlement to be retained for periods of temporary absence abroad of up to 13 weeks, and makes consequential amendments to regulation 5 and Schedule 3 of those regulations.

#### **Regulation 4**

Amends regulation 83 of the Housing Benefit Regulations to reduce the backdating period to 3 months.

#### **Regulation 5**

Amends regulation 64 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations to reduce the time for claiming and backdating period to 3 months.

#### **Regulation 6**

Amends regulation 69 of the Council Tax Benefit Regulations to reduce the period of backdating to 3 months.

#### **Regulation 7**

Amends regulation 53 and 56 the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations to reduce the time for claiming and backdating period to 3 months.

# Equality Impact Assessment

Name of strategy/project/policy/process/function:

**Changes to the time for claiming Pension Credit and Housing Benefit and Council Tax Benefit for those of Pension Credit age from 12 to 3 months and a change to the backdating period allowed within Housing Benefit and Council Tax Benefit for working age customers from 52 weeks to 3 months**

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## 1. Introduction

- 1.1 A change in the rules for three established benefits is being proposed. These benefits are Pension Credit, Housing Benefit (HB) and Council Tax Benefit (CTB) and are specifically aimed at those on low incomes. Pension Credit provides an income top up for pensioners, HB provides financial help towards rent and CTB reduces council tax liabilities.

### Disability Equality Duty

- 1.2 The Department is required to give due consideration to the Disability Equality Duty in reaching a decision on policy.<sup>2</sup> In addition, public bodies

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<sup>2</sup> Disability Equality Duty: Section 49A of the Disability Discrimination Act 1995 places a **general duty** on all public authorities to carry out their functions with due regard to the need to:

- promote equality of opportunity for disabled people,
- eliminate unlawful disability discrimination;
- eliminate disability-related harassment;
- promote positive attitudes towards disabled people;
- encourage disabled people's participation in public life; and

listed in regulations are subject to specific duties, which include a requirement to produce a Disability Equality Scheme that sets out arrangements for assessing the impact of policies, practices and procedures on disability equality.<sup>3</sup>

### Race Equality Duty

1.3 The Race Relations Act (RRA) as well as protecting against discrimination places a general [Race Equality Duty](#) on public authorities to:

- Eliminate racial discrimination.
- Promote equality of opportunity.
- Promote good relations between persons of different racial groups.

To help meet the Race Equality Duty public bodies have a specific duty to assess the likely impact of current and proposed policies and services and any changes to those.

### Gender Equality Duty

1.4 Since April 2007 public bodies are required to promote gender equality. The obligation covers all public functions, policies and services and will require public bodies to:

- Eliminate unlawful discrimination and
- Promote equality of opportunity between women and men.

[The Gender Equality Duty](#) requires public bodies to carry out impact assessments when considering new policy developments or changes to ensure that there will be no adverse impact on either women or men.

This document provides the findings of the impact assessment relating to proposed changes to Pension Credit, Housing and Council Tax Benefit.

### Proposals for change

1.5 The changes proposed do not provide for a new benefit or service as they simply change an existing rule within the established benefits listed above. These benefits are income related benefits and as such are not aimed at providing support for needs associated with disability as other benefits are available for this purpose, although it is acknowledged that a significant number of HB/CTB customers are disabled or have a long-

- 
- take steps to take account of disabled people's disabilities, even if that requires more favourable treatment.

<sup>3</sup> Disability Discrimination (Public Authorities)(Statutory Duties) Regulations 2005 (SI 2005/2966)

standing health condition. As figures in section 11 below indicate, 40% of HB customers under age 60 fall within this category, and 43% of those receiving CTB. We have therefore focused the impact assessment on the extent to which the rule application would have an impact on disability equality as well as the potential impact on other customer groups.

- 1.6 Currently, the time allowed for making a claim to Pension Credit is 12 months from the date on which the claimant is entitled. This effectively means that claimants who make a claim up to 12 months following entitlement may receive a payment in respect of the past period. This is commonly known as “backdating”.
- 1.7 As with Pension Credit, HB and CTB regulations for people who are of the qualifying age for state Pension Credit contain a provision that allows the customer 12 months in which to make their claim.
- 1.8 Provisions that exist for HB and CTB for customers of working age (set when these benefits were introduced in 1988 and 1992 respectively), allow customers to claim up to 52 weeks backdating where they can show continuous good cause for not having made a claim earlier. (See paragraph 12.2).
- 1.9 As part of a package of measures to streamline the benefit process, reduce intrusion into customers’ financial circumstances and improve the claims process, the Department proposes to change the time allowed for claiming and for backdating within these benefits. Other measures included in this package will:
  - introduce a more automatic claims process for HB/CTB for pensioners, enabling claims to be made entirely by telephone alongside claims to Pension Credit;
  - reduce the need for those Pension Credit claimants aged 80 and over to report changes to their retirement income (the “AIP run on”); and
  - enable all Pension Credit claimants who go abroad temporarily to keep their Pension Credit for up to 13 weeks.
- 1.10 The Pension Credit temporary absence abroad change is included in the same statutory instrument as the time for claiming changes but is the subject of a separate impact assessment. The other measures are contained either in the forthcoming Pension Bill, or in separate Statutory Instruments.
- 1.11 The changes covered by this impact assessment are those which:
  - (a) reduce the time for claiming Pension Credit from 12 months to 3 months

- (b) reduce the time for claiming HB/CTB for pensioners from 12 to 3 months; and
  - (c) amend the period a claim can be backdated for working age customers, from 52 weeks to 3 months.
- 1.12 It is considered that a period of 3 months to make a claim is an appropriate period, particularly in the context of an income related benefit. The change to 3 months brings the time for claiming and for backdating broadly into line with the backdating period which applies in other income related benefits such as Income support.
- 1.13 There are similar issues and considerations for the changes covered by this impact assessment but for ease these are covered in separate sections below.
- 1.14 This impact assessment has been undertaken in order to assess these proposals against the Department's disability, race and gender equality duties, under the Disability Discrimination Act 2005, the Race Relations Amendment Act 2000 and under the Sex Discrimination Act 1975, as amended by the Equality Act 2006.
- 1.15 This assessment considers the changes to the time for claiming and backdating periods for Pension Credit and HB/CTB in the light of the above duties, and those duties underpin the considerations that are given below to the impact of these proposals on different groups of customers.

## **A: CHANGE TO THE TIME PERIOD FOR CLAIMING PENSION CREDIT**

### **2. Purpose and aim(s) of the proposal or change:**

- 2.1 The purpose of this change is to:
- reduce the burden on operational staff when establishing the likely entitlement to benefit for a past period;
  - reduce the burden on customers to provide evidence and documentation for historic circumstances and changes; and
  - simplify decision making as evidence should be readily available and remove the need to rely on judgement and balance of probabilities.
- 2.2 The desired outcome is a more streamlined claims process, enabling claims to be investigated and cleared more effectively.
- 2.3 The rationale for reducing the time allowed for claiming Pension Credit is that it is now a well established benefit and as such there is no longer a

rationale for allowing a longer period for claiming than other established income related benefits. The reduction in the time for claiming for Pension Credit still retains more generous treatment for pensioners, as customers do not have to justify the time they have taken to claim. In comparison, other social security benefits, including those for disabled people such as Incapacity Benefit and the forthcoming Employment and Support Allowance, have a period of 3 months in which to claim. AA and DLA have a waiting period applied to the benefit and as such do not allow any backdating.

### **3. Who will benefit mainly from this proposal or change?**

3.1 The Department, will benefit operationally from the time for claiming change in Pension Credit as this change will help to relieve the difficulties described above, and the process of claiming will become more efficient. A reduction to a 3 month period in which to claim Pension Credit will benefit those processing claims by:

- reducing the amount of evidence and information to be collected from customers;
- simplifying the verification process as documents will be more likely to be available for a 3 month period; and
- easing decision making as there will no longer be a need for evidence and detailed review of changes of circumstances and entitlement over a 12 month period.

3.2 Customers should find the claiming process less onerous as:

- evidence of their circumstances over a period of up to 3 months is more likely to be accessible;
- it may be easier to recall changes in circumstances over a shorter period; and
- claims should be dealt with more quickly.

3.2 The change also enables the Department to make the other beneficial changes across Pension Credit/Housing Benefit and Council Tax Benefit described in section 1.

### **4. What information and/or data (evidence) has been obtained to impact assess this proposal or change?**

4.1 The assessment has drawn upon evidence from Departmental administrative data sources and from Pension Service operations. Welfare rights and other similar organisations have been invited to send in details of case studies or other information about the potential impact of the draft proposals.

4.2 The Department has already consulted key stakeholders such as Help the Aged and Age Concern and is continuing to receive representations from other bodies such as Citizens Advice. Help the Aged and Age Concern, whilst not welcoming this change, have said that steps should be taken to ensure that the Department maintains momentum on raising awareness and take up campaigns that mitigate against the potential impact, by encouraging people to apply as soon as they may be eligible and encouraging those who may have been eligible for some time to claim before the proposed changes come into force.

## **5. What is the impact of the proposal or change on different groups?**

5.1 Changing the time for claiming to 3 months will mean that those customers who claim after the change will have 3 months to claim once they think they may be eligible. The changes will apply to all new claimants and as such, will be equally applied to all customer groups but we have considered the potential impacts on different customer groups and this is covered in the following sub sections.

### ***Existing customers***

5.2 There will be no impact on existing customers, i.e. those who are already in receipt of Pension Credit or on those who make a new claim before the proposed new regulations come into force

### ***Customers already potentially eligible but who have not yet applied***

5.3 Those customers who may have been eligible for longer than 3 months at the time of the proposed changes will not be able to extend their time for claiming for up to 12 months once the change is implemented. However the Department is taking steps to encourage these people to apply before the new rules come into force. Section 6 below explains these steps in detail.

### ***Customers who apply after the change***

5.4 Potential future Pension Credit customers who make a claim following the change will only have 3 months to make their claim. There will be no adverse effect on anyone making a claim within 3 months of entitlement.

### ***Disabled people, women, older customers and ethnic minorities***

5.5 An analysis of the differential impact of the policy proposal by gender, age group and disability based on historical records of Pension Credit claims has been undertaken. It is not possible to extend this analysis to include

analysis by ethnic group because that information is not collected on the data source used.

5.6 In 2006/07 we estimate that around 40% of customers who successfully claimed Pension Credit backdated<sup>4</sup> their claims for more than 3 months. On average they received backdated payments of around £1,200. Just over half those who backdated their claims, did so for the maximum period of 12 months. Table 1 summarises what we know about the incidence of backdating Pension Credit across customer groups.

Table 1: The incidence of backdating in Pension Credit in 2006/7 by customer group

	Percentage of successful claims within the group that were backdated for more than 3 months	Percentage of successful claims within the group that were backdated for 12 months
<b>All successful claimants</b>	40%	25%
<b>Males</b>	35%	20%
<b>Females</b>	40%	25%
<b>Under 75</b>	30%	15%
<b>75+</b>	60%	40%
<b>In receipt of AA/DLA</b>	40%	25%
<b>Not in receipt of AA/DLA</b>	35%	25%

Note: percentages rounded to the nearest 5%  
Source: DWP administrative records.

5.7 The data we have therefore suggests that:

- Older pensioners are more likely to be affected by the proposed rule change. In 2006/7 older pensioners were more likely to backdate their claims than younger pensioners and were also more likely to do so for the maximum 12 months.
- A similar percentage of female and male claimants backdated their claims for more than 3 months.
- A similar percentage of disabled (those receiving Attendance Allowance or Disability Living Allowance) and non-disabled customers backdated their claims for more than 3 months.

5.8 The Department recognises that the impact could potentially be greater for older customers. Customer representatives have suggested that people with certain disabilities such as mental health impairments or communication difficulties may be less able to make their claims within the

<sup>4</sup> There is no data held directly on backdated payments of Pension Credit so the number of weeks backdated has been derived from the difference between the entitlement and award start dates and an adjustment made to allow for some of the difference being due to processing time.

3 month period, because they may not be aware of the existence of the benefit or may fail to understand the process for making a claim. So, even though our data suggests that disabled people are no more likely to be affected by the policy as non-disabled people overall, the Department recognises that there may be people with certain disabilities that face particular challenges in claiming within 3 months of their entitlement starting.

- 5.9 We have been unable to establish how many customers of ethnic minority origin backdated for this period as the Department does not collect such information.

### **Proposed mitigation of any negative impacts**

- 6.1 Since the introduction of Pension Credit in 2003, the Department has significantly improved and simplified the process for claiming. It is now possible to make a claim for Pension Credit in a single telephone call (although claims may still be made in writing if preferred). Additionally, The Pension Service will always offer customers a home visit to help them make a claim. As such, disabled or elderly customers will not need to delay claiming until they can find a friend or relative to support them.
- 6.2 Local partnership agreements are either in place or approaching completion with all 203 primary tier Local Authorities and surrounding voluntary sector organisations to provide a single point of access to social care and benefit entitlement. This provides access to some of the most vulnerable pensioners, many of whom have never applied for any entitlement, and may not be aware of what is available or how to claim.
- 6.3 The Department has also set up Alternative Offices (which allow Local Authorities and voluntary organisations to accept claims from people aged 60 or over for Social Security benefits, or a person under 60 for benefits from the Disability and Carers Service), together with community based Information Points (formerly known as surgeries) in places that customers are familiar with, such as Age Concern, CAB and voluntary sector organisations, providing access for some of the most vulnerable pensioners
- 6.4 The Department has already undertaken extensive marketing and publicity in order to encourage people to claim Pension Credit and will continue to work closely with Age Concern, Help the Aged and others to ensure that potential customers are aware of the proposed new rules. At a national level both organisations are members of the Partnership Against Poverty forum set up at the outset of the Pension Credit campaign to help to encourage take-up. We are building on the relationships we already have

- with Help the Aged and Age Concern to work with both organisations to promote Pension Credit take-up over the coming year.
- 6.5 The Department is confident that everyone who currently may have a potential entitlement to Pension Credit has now been contacted by The Pension Service and have been given the opportunity to make a claim. From our take-up and marketing analysis we have established that most of those potential claimants who may be eligible for Pension Credit, but who have not yet claimed have been contacted and made aware of the benefit, in a variety of ways: with over 75% of those people that the Department has identified as having a potential entitlement having been contacted 5 times or more by a combination of telephone calls and targeted mailshots.
  - 6.6 Data on take-up shows that up to 81% of those entitled to the Guarantee Credit element of Pension Credit are claiming it. However, in recognition that there may still be some potential customers who are unaware of their possible entitlement to Pension Credit, the Department intends to continue to promote take-up of benefits by those entitled and will continue to use data matching to identify those eligible to, but not claiming Pension Credit.
  - 6.7 Home visits will continue to be used to target vulnerable customers (in 2007/2008 the Pensions Service aims to carry out around 680,000 face to face visits) and seek to ensure that customers claim all of the benefits they may be entitled to.
  - 6.8 Take-up activity, information and awareness, leaflets and the claim process already take account of equality and diversity requirements. Information which is sent out to customers is written to plain English standards and to the standards set by RNIB. If a customer needs the literature in an alternative language/format The Pension Service will arrange for this to happen. For those customers whose first language is not English interpretation services are available on request.
  - 6.9 Prior to October 2008 when the changes are introduced, leaflets (available in alternative formats) will be amended to explain the proposed new rules so that those claimants who may wish to claim for a period which is more than 3 months will be aware of the need to do so before the proposed new regulations come into force.
  - 6.10 The Pension Service through its local service will continue to work closely with local partners such Help the Aged, Age Concern, and other community groups to improve take-up and ensure people are aware of the new rules. The Department will continue to work with these groups following the introduction of the change to continue to help those with

potential entitlement to claim and to ensure that all potential claimants are aware of the benefit and the time limits for claiming.

**7. Does the proposal or change have a positive impact on any group?**

7.1 The change enables us to focus expenditure on improving the benefit process through a package of simplification measures which brings benefits to all customers in terms of an improved service and less intrusion into their financial circumstances. For example, from October 2008 those who claim Pension Credit by telephone will also be able to claim Housing Benefit and Council Tax Benefit without the need for a claim form and signature. The claim details will then be sent to the Local Authority for assessment. Making the process simpler and more customer focussed. Around 50,000 pensioners will gain from this measure.

**8. Conclusion**

8.1 The Department believes that a change in the time period for claiming Pension Credit will improve the administrative process for benefit claims and enable us to focus on improvements in the benefit process overall, which will lead to a better experience for customers making claims and less intrusion for older customers with Assessed Income Periods.

8.2 The Department recognises that there may potentially be impacts on some customer groups but believe the steps taken to maintain focus on take-up and highlight awareness of the change should minimise any impacts that could arise.

8.3 The Department will continue to review take-up activity and the benefit process and will ensure appropriate support and help is available to the most vulnerable customers to identify potential entitlement and to ensure that they are able to claim Pension Credit as soon as possible once they become eligible.

**B: CHANGE TO THE TIME PERIOD FOR CLAIMING HOUSING BENEFIT AND COUNCIL TAX BENEFIT FOR THOSE OF PENSION CREDIT AGE**

**C: CHANGE TO THE BACKDATING RULES FOR HOUSING BENEFIT AND COUNCIL TAX BENEFIT FOR THOSE OF WORKING AGE**

**9. Purpose and aims of the proposals**

9.1 The Department plans to amend the time for claiming Housing Benefit (HB) and Council Tax Benefit (CTB) for pensioners from 12 to 3 months, to align with changes proposed to Pension Credit. To ensure consistency and simplicity for customers, it is also proposed that the period a claim for HB/CTB from working age customers can be backdated will be reduced from 52 weeks to 3 months. Both of these changes are consistent with the overall simplification agenda, making the rules for HB/CTB easier for customers and staff to understand. They broadly align HB/CTB with the backdating rules for other income related benefits. And these changes will also support the drive to improve administrative efficiency.

**10. Who will benefit mainly from this proposal or change?**

10.1 The changes to the time for claiming and backdating in HB/CTB are part of the overall simplification package that will enable resources to be targeted at improving the benefit process for these benefits as explained in Section 1. In particular the changes will allow resources to be invested in a change to the claims process for HB/CTB that will remove the need for a signed claim form for those claims taken by phone alongside Pension Credit, making the claims process more automatic for these customers.

10.2 Operational staff will also benefit from improvements in the administration process, as a result of:

- reduced levels of evidence and information to be collected from customers;
- simplified verification process as documents will be more likely to be available for a 3 month period; and
- improved speed and efficiency of decision making as there will no longer be a need for evidence and detailed review of changes of circumstances and entitlement over a 12 month period.

10.3 In addition, for people of pension age, the claiming process will be less onerous as:

- evidence of their circumstances over a period of up to 3 months is more likely to be accessible;
- it may be easier to recall changes in circumstances over a shorter period; and
- claims should be dealt with more quickly.

**11. What information and/or evidence has been used to assess the impact of this proposal ?**

- 11.1 The assessment has drawn upon evidence from Departmental analysts, from local authorities; and from a number of external stakeholders such as Citizens Advice (CA), and Child Poverty Action Group (CPAG).

#### Information about the data used

- 11.2 The scope of our analysis is restricted by the breadth and reliability of the data available to us. The information presented here represents the most complete and in-depth impact assessment possible subject to these data limitations.
- 11.3 Figures on the number and proportion of HB and CTB claimants likely to be affected by the backdating rule are derived from the Single HB Extract (HBSD-IAD scan)<sup>5</sup>. The backdating variable in the Single HB Extract was introduced relatively recently (April 2007) and accordingly we have no means of corroborating the data's robustness against historical data. The data only goes back 6 months. There are some concerns about the consistency of information provided by each local authority, but this will improve over time.

#### Data relating to number of claims backdated

- 11.4 Based on the first six months of data available, it is estimated that approximately 0.2%, of **new** HB and CTB claims would be affected. In absolute terms, this is approximately 3,000 HB and 3,000 CTB claims per year (Great Britain). These figures may be subject to revision as more data becomes available, however it is clear that the proposal would affect a relatively small group of individuals.

#### Existing HB and CTB claimants broken down by Equality group

- 11.5 The figures below correspond to the **existing** stock of HB and CTB claimants, for which we have reliable data. The data below present information on claimants' age, disability, ethnicity, claim type (passported/non-passported) and tenancy type.
- 11.6 Information on existing Housing Benefit and Council Tax Benefit claimants relate to Quarterly data. This aggregate-level data, provided by Local Authorities, offers a point-in-time estimate of the HB and CTB stockcount based on clerical returns. It is a trusted data source, however it contains no information on backdating. To no extent therefore is this information a substitute for information on backdating clients. Nevertheless, it is hoped that these figures are suggestive of the groups likely to be affected under the proposals.

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<sup>5</sup> HBSD-IAD scan is a case level dataset of HB/CTB claims, extracted directly from LA computer systems

## 11.7 *Receipt of Housing Benefit*

### *(a) Age, Disability and Tenancy Type*

At February 2007, there were 4.04 million family units in receipt of Housing Benefit in Great Britain. During the four quarters to February 2007, there were on average:

- 37% (1.50m recipients) classed as elderly
- 63% (2.52m recipients) classed as working
- Of the elderly, 48% (0.72m) were in Local Authority housing, 39% (0.59m) were in Registered Social Landlord housing, and 13% (0.19m) were in the Private Rental Sector.
- Of the working age, 38% (0.95m) were in Local Authority housing, 35% (0.89m) were in Registered Social Landlord housing, and 27% (0.67m) were in the Private Rental Sector.

Source: quarterly 121 & 122 data

### *(b) Of recipients aged under 60:*

- 40% (1.02m recipients) had a disability or long term illness
- 34% (0.85m recipients) were lone parents
- 11% (0.28m recipients) were unemployed
- 15% (0.38m recipients) were 'Others' - mostly in work, carers, widows, or had a short term illness.

Source: quarterly 121 & 122 data, averages over 4 quarters to February 07, splits by provisional May 05 1% data

### *(c) Ethnicity of recipients*

The 2005-06 Family Resources Survey details the proportion of all benefit units in the sample in receipt of HB by ethnic grouping (based on the ethnicity of the head of the household):

- 11% of all 'white' benefit units are in receipt of HB
- 15% of 'mixed race' benefit units
- 8% of 'Asian or Asian British' benefit units, including
  - 4% of 'Indian' benefit units
  - 11% of 'Pakistani and Bangladeshi' benefit units
- 22% of 'Black or Black British' benefit units, including
  - 22% of 'Black Caribbean' benefit units
  - 23% of 'Black non-Caribbean' benefit units
- 12% of 'Chinese or other ethnic group' benefit units.

### *(d) Claim Type*

Passported HB recipients: At February 2007, there were 2.92 million HB recipients (72% of the total HB caseload) also in receipt of a passporting benefit, and therefore in receipt of a full HB award.

Non-Passported HB recipients: At February 2007 there were 1.12 million HB recipients (28% of the total HB caseload) not in receipt of a passporting benefit.

Note: Passported benefits: refers to people in receipt of Income Support, income-based Jobseekers Allowance or guarantee credit or treated as receiving one of these benefits, who qualify for maximum HB/CTB.

### **11.8 Receipt of Council Tax Benefit**

#### *(a) Age, Disability and Tenancy Type*

At February 2007 there were 5.10 million family units in receipt of Council Tax Benefit in Great Britain, of which:

- 50% (2.55m recipients) were classed as elderly
- 50% (2.55m recipients) were classed as working age

Source: February 2007 quarterly 121 & 122 data.

#### *(b) Of recipients aged under 60, we estimate:*

- 42% (1.07m recipients) have a disability or long term illness.
- 34% (0.87m recipients) are lone parents.
- 11% (0.29m recipients) are unemployed.
- 13% (0.34m recipients) are 'Others'- either in work, carers, widows or had a short term illness.

Source: quarterly 121 & 122 data, averages over 4 quarters to February 07, splits by provisional May 2005 1% data

#### *(c) Ethnicity of Recipients*

The 2005-06 Family Resources Survey details the proportion of all benefit units in the sample in receipt of CTB by ethnic grouping (based on the ethnicity of the head of the household):

- 15% of all 'white' benefit units are in receipt of CTB
- 17% of 'mixed race' benefit units
- 15% of 'Asian or Asian British' benefit units, including
  - 10% of 'Indian' benefit units
  - 21% of 'Pakistani and Bangladeshi' benefit units
- 24% of 'Black or Black British' benefit units, including

- 25% of 'Black Caribbean' benefit units
- 23% of 'Black non-Caribbean' benefit units
- 14% of 'Chinese or other ethnic group' benefit units.

Source: 2005-06 FRS report

*(d) Claim Type*

Passported CTB recipients - At February 2007 there were 3.61 million CTB recipients (71% of the total CTB caseload) also in receipt of a passporting benefit.

Non-Passported CTB recipients - At February 2007 there were 1.49 million CTB recipients (29% of the total CTB caseload) not in receipt of a passporting benefit.

Additional information

11.9 A questionnaire was sent to 27 local authorities (out of a total of 408 local authorities), seeking information from them about HB/CTB claims that are backdated. All submitted responses, but the quality of the data provided varied considerably, and we have concerns that they each used different criteria for counting the number of backdating requests. There are a number of reasons why a claim may be paid from an earlier date, and backdating on the basis of good cause forms just one category. Of the responses we did receive, the figures given for the number of claims that were successfully backdated varied from 0.9% to 20%. The reasons given for backdating varied but commonly included ignorance of the benefit system (which in fact is not a reason for 'good cause' backdating), and health problems. The majority of authorities backdated claims for less than 3 months, with 25% saying they backdated some claims for periods greater than 3 months. Both the reliability of this data, and the lack of specific detail about how many claims are backdated for particular periods, means we cannot draw any firm conclusions from this exercise. It does, however, indicate that practices vary across local authorities and that people with health conditions are probably a key group that will be affected by the proposed change.

11.10 Welfare rights and other similar organisations have been invited to send in details of case studies or other information about the potential impact of the draft proposals. We received 11 emails from a variety of local organisations, providing details of case studies. Also two letters were sent to DWP Ministers, from CPAG, and from CA. The majority of examples related to people with mental health impairments or other disabilities, and pensioners who were unfamiliar with the claims process. A small number related to claims where insufficient information was provided and the claim was subsequently closed. While it is not possible to draw any conclusions regarding numbers who might be affected, there may be some people, notably those with health problems, who potentially may be disadvantaged. However in

many cases people with health or communication difficulties will have access to a third party such as a carer, advice worker, etc who may be able to offer assistance with the claiming process.

## **12. What is the impact of the proposal or change on different groups?**

12.1 There will be no impact on those customers who are already in receipt HB/CTB or on those who make a new claim before the new regulations come into force. All new customers on or after 6 October 2008 will have 3 months in which to make a claim.

12.2 There are no changes proposed to the rules on backdating. In summary, for people of working age, they must show that there was a good reason for not applying sooner. Ignorance of a particular benefit is not considered to be an acceptable reason. The circumstances in which good cause can be established generally falls into four main categories:

- the customer was so ill or otherwise unable to act that they could not claim and could not ask someone to claim for them;
- someone the claimant should have been able to rely on wrongly advised them they could not get HB/CTB;
- there were good reasons for the customer not believing they could claim, amounting to more than just not thinking or caring;
- some external factor prevented the customer from making a claim (eg failure of postal services, imprisonment).

12.3 There may be some impact on new customers who are disabled. In particular, customers who have mental health impairments or communication difficulties may not always be in a position to make their claims within the 3 month period, because they are not aware of the existence of these benefits or fail to understand the process for making a claim (due to the nature of their impairment), and have no one to advise or assist them.

12.4 A clear conclusion derivable from the data is that only a relatively small number of individuals would be affected by the modification to the backdating rule, and this would mainly be in the category of working age, disabled people.

12.5 While currently some pensioners may have difficulty claiming on time, we believe that this problem will largely disappear from October when new claims processes are introduced and joint claims are taken over the telephone for Pension Credit and HB/CTB, without the need for customers to complete or sign a claim form. The application will be sent directly to the local authority for processing. This will benefit both disabled and non disabled people of pension age.

### **13. Proposed mitigation of any negative impacts**

- 13.1 When similar proposals were put before SSAC in 2001, a number of concerns were raised and the proposed changes were withdrawn. The present package of changes are being submitted for SSAC's consideration in the knowledge that much has changed in the last seven years, removing many of the previously identified negative impacts. In addition, there are no plans to amend the rules on 'good cause.'
- 13.2 The administration of HB and CTB is now much improved, and this is backed up by Local Government Ombudsmen reports. Complaints about HB Administration have reduced by 74% in the last few years. Significant improvements have been made to local authority performance, which mean for example, that average HB/CTB processing times have been cut from 56 days in 2002/03 to 33 days in 2006/07.
- 13.3 The simplification agenda has considerably reduced the complexity of the benefit system making it easier for customers to get their entitlement. For example:
- the Pension Service now uses a shortened claim form (down from 26 to 3 pages) to target people who are claiming Pension Credit but are not claiming help with HB/CTB;
  - streamlined claim processes have been introduced, including the introduction of combined claims with DWP administered benefits, and more opportunities have been created for benefit claims to be made via third sector partners;
  - to align the benefit system, 'intention to claim' rules for HB/CTB have been introduced, and increased time limits to align with DWP administered income-related benefits;
  - and modifications for pensioners applying for Pension Credit have been mirrored in HB/CTB.
- 13.4 The impact of the changes will be mitigated in a number of ways. The Department will undertake a publicity campaign alerting customers to the potential change and encouraging them to apply before October 2008 should they believe that they are entitled to more than three months backdated HB/CTB. The campaign will start in late spring/early summer, and will include information to be circulated via the internet, and in the Departmental publication, Touchbase.
- 13.5 The Department will work with LAs and other landlords, reminding them of the need to address rent arrears promptly and by no later than the 8 week stage (the point at which action is usually triggered). As this will be within the 3 month period proposed, this change would still allow vulnerable working age customers who can show 'good cause' to claim HB/CTB and

apply for backdating to cover the period of arrears. Pensioners of course will be able to apply for 'backdating' without having to show good cause. This will give customers an opportunity of claiming HB/CTB within the three-month period should that be necessary, and will help address concerns about a potential increase in evictions and homelessness.

## **14. Conclusion**

- 14.1 The Department considers that the alignment of rules in this area is important in providing consistent rules across benefits to simplify the system as a whole. The period of 3 months strikes the right balance for income-related benefits that are intended to meet current day-to-day needs and which are generally administered far more efficiently than they were only a few years ago.
- 14.2 The Department considers that this change will still protect vulnerable customers from building up large debts, or facing eviction, in that such action is usually triggered where 8 weeks rent arrears has accumulated.
- 14.3 The Department will take steps to ensure people are aware of the changes prior to October 2008 and are encouraged to apply for their entitlement. Landlords will be encouraged to address rent arrears before they build up to more than 8-weeks. The changes will be monitored and further steps to mitigate any impact will be considered if necessary.

Review:

Signed:

Date:

**2008 No.**

**SOCIAL SECURITY**

**The Social Security (Miscellaneous Amendments) (No.2?)  
Regulations 2008**

*Made* - - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* - - - - - *6th October 2008*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 5(1)(a), 6(1)(a), 189(1),(3),(4) and (5) and 191 of the Social Security Administration Act 1992<sup>(6)</sup>, section 175(4) of the Social Security Contributions and Benefits Act 1992<sup>(7)</sup> and sections 1(5), 17 and 19 of the State Pension Credit Act 2002<sup>(8)</sup>.

[In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it.]

[In accordance with sections 172(1) and 176(1) of the Social Security Administration Act 1992, the Secretary of State has referred these Regulations to the Social Security Advisory Committee and has consulted with organisations appearing to him to be representatives of the authorities concerned.]

**Citation and commencement**

**1.** These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No. 2?) Regulations 2008 and shall come into force on 6th October 2008.

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<sup>(6)</sup> 1992 c. 5. Section 189(1) was amended by the Social Security Act 1998 (c.14), Schedule 7, paragraph 109(a) and Schedule 8, by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2), Schedule 3, paragraph 57(1) and (2) and by the Tax Credits Act 2002 (c.21), Schedule 6. Section 191 is cited for the meaning ascribed to the word “prescribe”.

<sup>(7)</sup> 1992 c.4. Section 175 is applied to the provisions of the State Pension Credit Act 2002 (c. 16) by virtue of section 19 of that Act.

<sup>(8)</sup> c. 16. Section 17 is cited for the meaning ascribed to the word “prescribe”.

### **Amendment of the Social Security (Claims and Payments) Regulations 1987**

- 2.—(1) The Social Security (Claims and Payments) Regulations 1987<sup>(9)</sup> are amended as follows.
- (2) After regulation 19(3)(h)(time for claiming benefit) <sup>(10)</sup> add—
- “(i) subject to paragraph (3D), state pension credit.”
- (3) After regulation 19(3C) <sup>(11)</sup> insert—
- “(3D) For avoidance of doubt, where a claim for state pension credit is, or is treated as made on or after 6th October 2008, in respect of any period beginning before 6<sup>th</sup> October 2008, the time for claiming shall be 3 months.”
- (4) Paragraph 12 of Schedule 4 <sup>(12)</sup> (prescribed times for claiming benefit) is omitted.

### **Amendment of the State Pension Credit Regulations 2002**

- 3.—(1) The State Pension Credit Regulations 2002<sup>(13)</sup> shall be amended as follows.
- (2) For regulation 3 (persons temporarily absent from Great Britain) substitute—
- “3. A claimant’s entitlement to state pension credit during periods of temporary absence from Great Britain is to continue for up to 13 weeks only if—
- (a) the period of the claimant’s absence from Great Britain is unlikely to exceed 52 weeks; and
- (b) while absent from Great Britain the claimant continues to satisfy the other conditions of entitlement to state pension credit.”
- (3) In regulation 5 (persons treated as being or not being members of the same household)—
- (a) for paragraph (1)(f) substitute—
- “(f) he is absent from Great Britain for more than 13 weeks.”; and
- (b) omit paragraph (3).
- (4) In paragraph 1(8) of Schedule III (special groups: polygamous marriages) [after “regulations”] omit “3”
- (5) For the avoidance of doubt, this regulation applies to a claimant—
- (a) whose period of temporary absence from Great Britain begins on or after 6th October 2008; or
- (b) who is already temporarily absent from Great Britain on 6th October 2008 and whose entitlement to state pension credit was continuing immediately before the coming into force of this instrument.

### **Amendment of the Housing Benefit Regulations 2006**

- 4.—(1) The Housing Benefit Regulations 2006<sup>(14)</sup> are amended as follows.
- (2) In regulation 83(12)(b)(time and manner in which claims are to be made), for “the day 52 weeks” substitute “subject to paragraph (12A), the day 3 months”.

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<sup>(9)</sup> S.I. 1987/1968.

<sup>(10)</sup> Regulation 19 was substituted by S.I. 1997/793.

<sup>(11)</sup> Regulation 19(3C) was inserted by 2007/2740.

<sup>(12)</sup> Schedule 4, paragraph 12 was inserted by S.I. 2004/1821.

<sup>(13)</sup> S.I. 2002/1792. Regulation 3 was amended by S.I. 2003/2274 and 2006/718 and regulation 5(1)(f) was amended by S.I. 2003/2274.

<sup>(14)</sup> S.I. 2006/213.

(3) After regulation 83(12)(b) insert—

“(12A) Where a claim for a past period is made in accordance with paragraph (12), in respect of any period before the 6th October 2008, the maximum period for which that claim may be backdated shall be 3 months beginning with the date of claim for backdating.”.

#### **Amendment of the Housing Benefit (Persons who have attained the qualifying age for State Pension Credit) Regulations 2006**

5.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006<sup>(15)</sup> are amended as follows.

(2) In regulation 64(1) (time and manner in which claims are to be made), for “The prescribed time” substitute “Subject to paragraph (1A), the prescribed time” and for “twelve months” substitute “three months”.

(3) After regulation 64(1), insert—

“(1A) For avoidance of doubt, where a claim for housing benefit is, or is treated as made on or after 6th October 2008, in respect of any period beginning before 6<sup>th</sup> October 2008, the time for claiming shall be 3 months.”.

(4) In regulation 64(13)(b), for “the day 52 weeks” substitute “subject to paragraph (13A), the day 3 months”.

(5) After regulation 64(13)(b), insert—

“(13A) Where a claim for a past period is made in accordance with paragraph (13), in respect of any period before the 6 October 2008, the maximum period for which that claim may be backdated shall be 3 months beginning with the date of claim for backdating.”.

#### **Amendment of the Council Tax Benefit Regulations 2006**

6.—(1) The Council Tax Benefit Regulations 2006<sup>(16)</sup> are amended as follows.

(2) In regulation 69(14)(b) (time and manner in which claims are to be made), for “the day 52 weeks” substitute “subject to paragraph (14A), the day 3 months”.

(3) After regulation 69(14)(b) insert—

“(14A) Where a claim for a past period is made in accordance with paragraph (14), for any period before the 6th October 2008, the maximum period for which that claim may be backdated shall be 3 months beginning with the date of claim for backdating.”.

#### **Amendment of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**

7.—(1) The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006<sup>(17)</sup> are amended as follows.

(2) In regulation 53(13)(b) (time and manner in which claims are to be made) for “the day 52 weeks” substitute “subject to paragraph (13A), the day 3 months”.

(3) After regulation 53(13)(b) insert—

“(13A) Where a claim for a past period is made in accordance with paragraph (13), for any period before the 6th October 2008, the maximum period for which that claim may be backdated shall be 3 months beginning with the date of claim for backdating.”.

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<sup>(15)</sup> S.I. 2006/214.

<sup>(16)</sup> S.I. 2006/215.

<sup>(17)</sup> S.I.2006/216.

(4) Regulation 56 (time for claiming council tax benefit) becomes paragraph (1).

(5) In that paragraph, for “The prescribed time” substitute “Subject to paragraph (1A) the prescribed time” and for “12 months” substitute “3 months”.

(6) After that paragraph, add—

“(1A) . For avoidance of doubt, where a claim for council tax benefit is, or is treated as made on or after 6 October 2008, in respect of any period beginning before 6 October 2008, the time for claiming shall be 3 months.”.

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

	<i>Name</i>
	Parliamentary Under Secretary of State
	Department for Work and Pensions
Date	

### EXPLANATORY NOTE

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

These Regulations amend the Social Security (Claims and Payments) Regulations 1987, (“the Claims and Payments Regulations”), the State Pension Credit Regulations 2002 (“the State Pension Credit Regulations”), 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.

Regulation 2 amends regulation 19 of, and Schedule 4 to, the Claims and Payments Regulations. Regulation 2(2) adds state pension credit to the list of benefits set out in regulation 19(3) of those Regulations so that the time for claiming it is prescribed as 3 months beginning with any day on which, apart from satisfying the condition of making the claim, the claimant is entitled to the benefit concerned. Regulation 2(3) provides, for the sake of clarity, that in the case of a claim that is made, or treated as made, for a period beginning before these Regulations come into force, the time for claiming shall be 3 months. Regulation 2(4) omits state pension credit from Schedule 4 to the Claims and Payments Regulations.

Regulation 3 amends the State Pension Credit Regulations so that the period in which entitlement to pension credit continues during a period of temporary absence abroad is increased to 13 weeks and makes consequential amendments to regulation 5 and Schedule 3 of those regulations.

Regulation 4 amends the Housing Benefit Regulations 2006. Regulation 4(2) amends regulation 83(12)(b) of those Regulations so as to enable a claim for housing benefit to be backdated for 3 months. Regulation 4(3) has the effect of limiting the period for which backdated claims to housing benefit may be made to 3 months beginning with the date of the backdated claim.

Regulation 5 amends the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Regulation 5(2) amends the time for claiming housing benefit from 12 months to 3 months. Regulations 5(4) and (5) have the effect of limiting the period for which backdated claims to housing benefit may be made to 3 months beginning with the date of the backdated claim.

Regulation 6 amends the Council Tax Benefit Regulations 2006. Regulation 6(2) amends regulation 69(14)(b) of those Regulations 2006 by substituting the words “the day 3 months” for “the day 52 weeks”. The amendment enables a claim for council tax benefit to be backdated for 3 months, instead of 52 weeks. Regulation 6(3) has the effect of limiting the period for which backdated claims to council tax benefit may be made to 3 months beginning with the date of the backdated claim.

Regulation 7 amends the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Regulation 7(2) and (3) have the effect of limiting the period for which backdated claims to council tax benefit may be made to 3 months beginning with the date of the backdated claim. Regulations (4) to (6) amend the time for claiming council tax benefit from 12 months to 3 months.

A full impact assessment has not been published for this instrument as no impact on private or voluntary sectors is foreseen.