

**DISABILITY RIGHTS HANDBOOK
STATUTORY INSTRUMENTS
2003-2004**

compiled by Ian Greaves

Section B – Income support
SI/2003/1589 (see Section F)

SI/2003/1701 (see Section M)

SI/2003/2259 (see Section K)

SI/2003/2279 – Income and capital

Payments made under the Employment, Retention and Advancement Scheme to be disregarded both in the calculation of income other than earnings and as capital (for up to 52 weeks after receipt of payment). Payments made under the Adoption and Children Act 2002 to be disregarded both in the calculation of income other than earnings and as capital. The effect of ‘supporting people’ payments on income and capital has been clarified.

The capital disregards for arrears of housing benefit have been removed for council tax benefit and visa-versa.
Came into force 1st-6th October 2003.

SI/2003/2634 (see Section C)

SI/2003/2693 – Standard interest rate

The standard rate of interest applicable to loans qualifying for income support has been decreased from 5.34% to 5.07%.
Came into effect 16th November 2003.

Section C – Housing and council tax benefits

SI/2003/1338 - Housing benefit and council tax benefit

When pension credit is introduced on 6th October 2003 housing benefit and council tax benefit periods will be abolished for people who reach the age of 60 (the qualifying age for pension credit). Transitional rules have also been introduced allowing the awards of people who reach the age of 60 between 16th June and 5th October 2003 to be extended at the point where their benefit period would normally have expired.

SI/2003/1589 (see Section F)

SI/2003/2275 – Pension credit

Changes have been made to the Housing Benefit and Council Tax Benefit Regulations with particular relation to;

- the treatment of those in remunerative work;
- the determination of the applicable amount for lone parents;

- the determination of the disabled child premium where the child has recently died;
- the treatment of income from sub-letting;
- SPP and SAP, so that they are treated in the same way as SMP in the calculation of child care charges;
- make further provision in connection with deductions for non-dependants living in the household. The changes introduce a concession for pensioners aged 65 and over: If a claimant is aged at least 65 and a non-dependant moves into their household, then any non-dependant deduction will not be applied for a period of 26 weeks. Similarly, if there is a non-dependant already living in the claimant's household and their income increases, such that a higher non-dependant deduction would normally be triggered, then the higher non-dependant deduction will again not be applied for a period of 26 weeks;
- provide for the date on which changes of circumstances are to have effect;
- the specified categories of earnings to be disregarded (in particular in relation to couples where one partner is in a specified occupation);
- other income to be disregarded (in particular specified payments to war widows and war widowers); capital to be disregarded (in particular in relation to compensation payments received in respect of the non-payment of certain benefits).

Changes have also been wrought to the decisions and appeals process for housing benefit and council tax benefit. In particular, in relation to the revision, and further revision, of decisions awarding housing benefit or council tax benefit which are affected by a change in a person's entitlement to another benefit, and for the supersession of such decisions, including provision for the date on which the superseding decision is to take effect. Came into force 5th/6th October 2003.

SI/2003/2279 (see Section B)

SI/2003/2398 and SI/2003/2399 - Housing benefit: local housing allowances

Regulations have been introduced to allow pilot schemes to be set up which will test radical new methods of calculating housing benefit for private sector tenants (Statutory Instrument 2003/2399). In the pilot schemes, or 'Pathfinder' areas, instead of receiving housing benefit that is specific to their tenancies, claimants will instead receive a standard 'local housing allowance'. These will vary across different areas (known as broad rental market areas) of each local authority and will be set at different rates for different sizes of accommodation. The rates will be established by rent officers, who will average out the highest and lowest 'reasonable' rents for accommodation of each size in each area. A claimant may rent a property where the rent is lower than the local housing allowance and keep the difference. Alternatively, if their rent is higher than the local housing allowance, they will have to make up the difference. The local authorities chosen as Pathfinder areas are Blackpool (from 17th November 2003), Lewisham (from 1st December 2003), Coventry and Teignbridge (from January 2004) and Brighton, Edinburgh, NE Lincolnshire, Conwy and Leeds (from February 2004).

SI/2003/2634 – Housing benefit & CTB: earnings disregards

Changes have been made to the qualifying conditions for the 30-hour earnings disregard. The minimum hours limit has been reduced from 30 to 16 hours per week where the claimant is a lone parent, or where they (or their partner) are responsible for a child, or where the person engaged in the remunerative work is over the age of 50 and has recently started work, or that person satisfies the condition for a disability premium. Similar changes have also been made for those in work who have attained the qualifying age for pension credit and who are not in receipt of income support or income-based JSA. The amount of income used for calculating pension credit (in savings credit only cases) when the above hours limits are satisfied may also be adjusted to take into account the disregard.

Coming into force 12th April 2004.

Section D – Social fund

SI/2003/1570 – Funeral expenses

The cap on funeral expenses that can be met out of the social fund where there is a pre-paid funeral plan which does not itself cover these expenses has been raised from £100 to £120, in respect of deaths which occur on or after 6th October 2003.

SI/2003/1737 – Winter fuel payment

There is to be an additional £100 in the winter fuel payment for households where a member has attained the age of 80 by the end of the qualifying week. Coming into force 1st September 2003.

SI/2003/2192 – Winter fuel payment

An additional £50 winter fuel payment is to be provided for anyone in residential care who does not receive IS or income-based JSA who has attained the age of 80 by the end of the qualifying week. Came into force 3rd September 2003.

Section E – Unable to work

SI/2003/1050 (see Section R)

SI/2003/2262 – Incapacity benefit

The amount that can be earned before disqualification of the unemployability supplement is increased from £3,510 to £3,744, the earnings limit for councillor's allowance is increased from £67.50 to £72 and the permitted work higher limit also from £67.50 to £72. Came into force 1st October 2003.

Section F – Going back to work

SI/2003/1589 – Lone parent run-on and back to work bonus

The provisions for lone parent run-on and the back to work bonus are to be abolished. Also to be abolished will be the special two-week rule that applies to lone parents claiming mortgage interest run-on, housing benefit run-on and council tax benefit run-on. Instead lone parents will be entitled to the four week run-on available to other claimants. The new rule will only come into force on the 25th October 2004. There will be transitional protection for

claimants who have acquired an entitlement to back to work bonus prior to 25th October 2004, from 25th October 2004 through to 28th January 2005.

SI/2003/1731 – Working tax credit and child tax credit

More miscellaneous amendments to the main income support, jobseeker's allowance, housing benefit and council tax benefit regulations, the Decisions and Appeals regulations and the tax credit regulations, relating to the introduction of the tax credits. Coming into force 8th August 2003.

SI/2003/1923 – National minimum wage

Minimum hourly rate increased from £4.20 to £4.50. Rate for workers aged between 18 and 21 increased from £3.60 to £3.80. Alterations to the valuation of accommodation where workers are provided with this. Came into force 1st October 2003.

SI/2003/2170 – Child tax credit

Transitional provision is made in connection with the introduction of child tax credit, as a replacement for the minimum income guarantee in income support, for persons aged over 60 who, throughout the period beginning on 22nd August 2003 and 28th September 2003, are in receipt of income support, are aged not less than 60 and are responsible for a child. In such a case a person is deemed to have made a claim for child tax credit (a) on 22nd August 2003 for the purpose of enabling a decision to be made by the Inland Revenue on the claim and (b) on the first day of the first benefit week beginning on or after 29th September 2003 for all other purposes. Came into force 22nd August 2003.

SI/2003/2262 (see Section E)

SI/2003/2438 – Employment zones

Employment Zones are being set up with the stated intention of providing new ways to assist JSA claimants to find and keep jobs in areas of the country with high long-term unemployment. In 15 of these areas, contractors have been appointed to provide the service, which will replace that of Jobcentre Plus. These regulations provide the framework for the scheme. It will apply to JSA claimants in the relevant regions, who are:
aged 25 and over, who have been entitled to JSA for the last 18 months (or at least 18 out of the last 21 months); *or* are
aged 18-24, who have participated in a New Deal for Young People, and have been entitled to JSA for the last 6 months or a cumulative period of at least 6 months (provided that there are no breaks of over 28 days).
Came into force 27th October 2003.

Section J - Help for carers

SI/2003/1017 - Energy efficiency grants

The list of people eligible to claim under the Warm Front Grants Scheme has been extended to include anyone who is in receipt of child tax credit or working tax credit and has a relevant income of less than £14,200. Came into force 25th April 2003.

SI/2003/1196 - Equipment

As indicated in the Handbook regulations have now been passed which require aids and minor adaptations to property (costing £1000 or less to make), for the purposes of assisting with nursing at home or aiding daily living, to be provided free of charge. The same regulations require 'intermediate care' (a structured programme of care provided for a limited period of time to assist someone to maintain or regain their ability to live in their home) to be provided free of charge for up to six weeks. Came into force 9th June 2003.

SI/2003/1216 - Carers: voucher schemes

Provision has been made for local authorities to set up voucher schemes, to enable carers of disabled adults or those with parental responsibility for disabled children to have a break from caring, during which time alternative care is provided for the person that they care for (Statutory Instrument 2003/1216). The value of the vouchers can be expressed in terms of either money or time. A 'time voucher' must specify the service for which the voucher may be redeemed and may also specify an authorised service supplier. The vouchers should be used within a year of the date of their issue; otherwise they will become void. Where someone wants services that are additional to or more expensive than those than those which can be secured using the voucher they would need to seek a third party to fund the difference in cost. Came into force 29th May 2003.

SI/2003/2263 – Energy efficiency grants

The list of persons eligible to apply for a grant has been extended to include someone who is, or who is living with a spouse who is, in receipt of state pension credit and has attained, or is living with a spouse who has attained, the age of 60. The maximum grant that may now be paid in respect of a works application by such a person is £2,500. Came into force 6th October 2003.

SI/2003/2343 – Residential care: assessment of resources

There are new disregards applied in the financial assessment of those in residential care. Payments made under the Adoption and Children Act 2002 are now disregarded as income and capital. There is also a £4.50 disregard of any savings credit (£6.75 if a couple) where an individual has qualifying income not exceeding the standard minimum guarantee, and a sum of £4.50 (£6.75 if a couple) to be disregarded if an individual has qualifying income above the standard minimum guarantee. Came into force 6th October 2003.

SI/2003/2325 – Direct payments and personal expenses allowance

Direct payments can now be made to third parties from the guarantee credit element of pension credit. The personal expenses allowance for those in residential care is set at £17.50. Came into force 6th October 2003.

SI/2003/2504 – Housing renewal grants

These regulations introduce a number of changes to the means-test for housing renewal grants. Particular amendments are made due to the introduction of pension credit and working tax credit. The extra premium

designed to reflect housing costs has been increased to £53.79 (or £69.92 for disabled children and young people).
Came into force 29th October 2003.

Section K – Care homes

SI/2003/627 – Care homes: assessment of resources

Amends the means test used by English local authorities in the assessment of the ability of a person to pay for care in a care home (arranged under Part 3 of the National Assistance Act 1948). Changes the capital limits to £12,000 and £19,500. Provides for certain payments made by a local authority to or on behalf of a resident in respect of housing service charges to be disregarded as income or capital in the financial assessment. Further provides that the amount of payments made by the resident to the local authority under the Local Authorities (Charges for Specified Welfare Services) (England) Regulations 2003 shall be disregarded as income or capital. Provides an income disregard for guardian's allowance and child tax credit. Provides a capital disregard for the value of a dwelling which the claimant has ceased to occupy following estrangement or divorce where the dwelling is still occupied as a home by the former partner who is a lone parent. Provides a capital disregard for any arrears, or any concessionary payment to compensate for arrears due to the non-payment of tax credits for a period of 52 weeks.
Came into force 1st April 03.

SI/2003/628 – Care homes: sums for personal requirements

Sets out the weekly sum for the above residents for their personal requirements at £17.50 a week. Came into force 7th April 03.

SI/2003/907 – Charging for welfare services

Allows local authorities in England to make charges for certain welfare services (for which housing benefit was paid on 31st March 03). Came into force 1st April 2003.

SI/2003/2259 – Attendance allowance and disability living allowance

The restriction on payment of attendance allowance or disability living allowance for any period throughout which a person is provided with accommodation, the cost of which may be borne out of public or local funds pursuant to certain enactments, has been removed. At the same time, the restriction on payment of attendance allowance or disability living allowance to a person funding accommodation provided for them from their own resources where the person is entitled to certain benefits has also been removed. Came into force 6th October 2003.

SI/2003/2530 and SSI/2003/425 – Care homes: financial assessment

Extend to Wales and Scotland the new disregards applied in the financial assessment of those in care homes (reflecting the English Statutory Instrument 2003/2343). As from October 6th there is a disregard of any pension credit savings credit of up to £4.50 (or £6.75 for a couple) where an individual has qualifying income not exceeding the standard minimum guarantee.

Came into force 6th October 2003.

Section L – Hospital

SI/2003/1195 - Hospital downrating

Regulations have now been passed to put into effect to the changes announced in the budget with respect to the way in which benefits are reduced or 'downrated' after stays in hospital. Principally most benefits are now reduced or withdrawn after 52 weeks in hospital, rather than 6 weeks as was the case previously. The affected benefits are:

- Council tax benefit
- Housing benefit
- Incapacity benefit
- Income support (including minimum income guarantee)
- Industrial injuries benefit unemployability supplement
- Jobseeker's allowance (for dependents)
- Pension credit (guarantee credit)
- Severe disablement allowance
- State pension
- Widow's and bereavement benefits

Section M – Children and young people

SI/2003/1588 – Grants for disabled postgraduate students

Students who are in receipt of NHS bursaries (whether or not means tested) and bursaries under the Care Standards Act 2000 will not be eligible for grants for disabled postgraduate students. The maximum level of these grants will be raised to £5,370. Coming into force 1st September 2003.

SI/2003/1701 (corrected by SI/2003/1914) – Students and income-related benefits

The amount of grant and loan income to be disregarded will be increased in respect of books and equipment (to £335) and travel costs (to £270). National Assembly for Wales' Learning Grants and Department of Education and Skills Parent Learning Allowance payments will be completely disregarded. Came into force 1st August 2003.

SI/2003/1864 – free milk and vitamins

From 6th October 2003, the pregnant partners of persons entitled to the guarantee credit element of state pension credit will be entitled to free milk for personal consumption.

From 18th July 2003, entitlement to free milk will be removed for those children in families where the person or persons to whom an award of child tax credit is made is entitled to working tax credit. The entitlement of certain children is also removed. Similar amendments are made in respect of entitlement to free vitamins.

Additionally, from 18th July, a mother who is breast-feeding her child under the age of one year who is, or is a member of the family of a person who is entitled to child tax credit and meets the stipulated conditions will be entitled to free vitamins.

Section N – Retirement

SI/2003/1767 – Home responsibilities protection

Home responsibilities protection to be extended to include approved foster parenting in respect of the year 2003-04 and any subsequent years.

SI/2003/2170 (see Section F)

SI/2003/2274 – Pension credit

This regulation makes a number of minor amendments to the existing pension credit regulations (SI/2002/1792). In particular it:

- clarifies the provisions under which a person is treated as being or not being a member of the same household as the claimant;
- adds a further instance where an 'assessed income period' cannot be set;
- clarifies provisions in respect of certain categories of income (including income in lieu and rent payments made to the claimant);
- adds adoption leave and paternity leave to the periods in which a person is treated as not being in remunerative work for the purposes of housing costs;
- uprates the amounts deducted in respect of non-dependants for the purposes of housing costs;
- adds new categories of income disregards for war widowers and in respect of special war widows payments;
- provides that actual income from capital will only be taken into account in certain specified circumstances;
- amends a capital disregard in respect of relevant trust payments to persons suffering from variant Creutzfeldt-Jacob disease so that it also applies to single claimants;
- amends a capital disregard in respect of compensation payments received in respect of certain specified benefits;
- allows couples, where one partner is in a special occupation, to benefit from a £20 disregard.

Additionally there is a clarification of periods during which time changes of the claimant's retirement provision need not be notified. A new ground for a supersession in relation to pension credit has been set up and the dates on which certain pension credit decisions take effect have been clarified. Came into force 6th October 2003.

Section O – Special compensation schemes

SI/2003/2190 – Industrial injuries: prescribed diseases

The power to make provisional assessments in respect of occupational deafness has been removed. All assessments in respect of occupational deafness will now be for life. Associated provisions relating to supersessions, reassessments and appeals over provisional assessments have also been removed. The list of occupations in relation to which hearing loss is a prescribed disease has been changed. Came into force 22nd September 2003.

Section Q – Other matters

SI/2003/1673 – Disability Discrimination Act

Establishes a general framework for equal treatment in employment and occupation, amending the Disability Discrimination Act 1995. Coming into force 1st October 2004.

SI/2003/2381 – Sight tests and glasses

Free NHS eyesight tests and vouchers to put towards glasses and contact lenses will be extended to members of families of anyone in receipt of the pension credit guarantee credit.

Came into force 6th October 2003.

SSI/2003/431 and SSI/2003/432 – Health benefits

Pension credit (guarantee credit) claimants (and members of their family) in Scotland will be entitled to payments to cover the cost of prescription optical appliances and will also be entitled to have their sight tested under general ophthalmic services.

Came into force 6th October 2003.

SSI/2003/460 – Health benefits

These regulations set out the framework in Scotland for the remission and repayment of charges for NHS products and services (including dental appliances and treatment). They include lists of those groups of people exempt from prescription charges or exempt from charges for (or entitled to partial help with) dental treatment, optician's charges and travelling expenses to hospital.

Came into force 6th October 2003.

Section R – Claims and appeals

SI/2003/1050 – Decisions and appeals

Regulations have recently been made which change a number of areas relating to decisions and appeals. They came into force 5th May 2003.

Change of circumstances

Any decision can now be superseded if there has been a relevant change of circumstances since it 'had effect', rather than, as was previously the case, since it 'was made'. This seemingly minor change allows a decision maker to supersede a tribunal's decision to take account of a change of circumstances that occurred after the decision under appeal was made, which only came to light during the appeal process.

Changes in legislation

When the change of circumstances is a change in the legislation then the supersession can take effect from the date on which the change in the legislation takes effect.

'Out of jurisdiction' appeals

The definition of 'out of jurisdiction' appeals (that is to say appeals made against decisions that are specified as not appealable) has been extended to include certain decisions in respect of housing benefit and council tax benefit.

Personal capability assessment: advance tests

When someone who is still subject to the 'own occupation test' is subjected to and consequently fails the 'personal capability assessment' then the decision to award benefit (or credit entitlement) can now be superseded on the

grounds that there is an anticipated relevant change of circumstances. The date that the supersession will take effect will be the day after the own occupation test no longer applies.

SI/2003/1581 – Decisions and appeals

Adds certain decisions relating to claims for and payment of pension credit to the list of administrative decisions which do not attract a right of appeal. Also provides that no appeal will lie against calculations and estimates of a claimant's (or their partner's) income and capital for housing benefit or council tax benefit, where they have been awarded only the savings credit of pension credit. Came into force 18th June 2003.

SI/2003/1632 – Claims and payments

People of qualifying age for pension credit will be able to claim attendance allowance, bereavement benefit, carer's allowance, DLA, incapacity benefit, retirement pension, winter fuel payment or income support at any 'designated office' or at a local authority housing benefit office. Came into force 21st July 2003.

SI/2003/1886 – Jobcentre plus interviews for partners

A new requirement is to be introduced on the partners of claimants of income support, income based jobseeker's allowance, severe disablement allowance and carer's allowance. Where the claimant is entitled to the particular benefit at a higher rate than the partner, the partner will have to take part in a work-focused interview. Coming into force 12th April 2004.

SI/2003/2274 (see Section N)

SI/2003/2275 – (see Section C)