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STATUTORY INSTRUMENTS

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**2009 No. 614**

**SOCIAL SECURITY**

**The Housing Benefit (Amendment) Regulations 2009**

*Made* - - - - *10th March 2009*  
*Laid before Parliament* *16th March 2009*  
*Coming into force* - - *6th April 2009*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(d), 130A(2), (3), (5) and (6), 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(1).

In accordance with section 172(1) of the Social Security Administration Act 1992, the Secretary of State has referred these Regulations to the Social Security Advisory Committee.

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

**Citation and commencement**

1. These Regulations may be cited as the Housing Benefit (Amendment) Regulations 2009 and shall come into force on 6th April 2009.

**Amendment of the Housing Benefit Regulations 2006**

- 2.—(1) The Housing Benefit Regulations 2006(2) shall be amended as follows.  
(2) Before regulation 13(3) insert—

**“Transitional protection – larger properties**

12L.—(1) This regulation applies where—

- (a) reference was made to a maximum rent (LHA) in determining the amount of the eligible rent which applied immediately before 6th April 2009;

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(1) 1992 c.4. Section 130A was inserted by section 30 of the Welfare Reform Act 2007 (c.5). Section 137(1) is an interpretation provision and is cited for the meaning of “prescribed”. Section 175(1) and (4) was amended by Schedule 3, paragraph 29 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).  
(2) S.I. 2006/213.  
(3) Regulation 13 was substituted by S.I. 2007/2868. Regulations 12E to 12K are inserted by Schedule 10 to the Housing Benefit Regulations 2006 and apply to former pathfinder authorities. Schedule 10 was substituted by S.I. 2007.2868.

- (b) the category of dwelling for which that maximum rent (LHA) was determined corresponded to a category of six or more bedrooms; and
- (c) on or after 6th April 2009 the relevant authority is required to determine a maximum rent (LHA) by virtue of—
  - (i) regulation 13C(2)(d)(i)(4) (change of category of dwelling), where it has not received notification of the death of a linked person; or
  - (ii) regulation 13C(3) (anniversary of the LHA date).
- (2) Where this regulation applies, the claimant's eligible rent is—
  - (a) the maximum rent (LHA) where that is equal to or higher than the eligible rent that applied immediately before 6th April 2009; or
  - (b) the amount of the eligible rent which applied immediately before 6th April 2009.
- (3) Where the eligible rent is the amount of the eligible rent which applied immediately before 6th April 2009, it will continue to apply until, on or after 6th April 2009, the first of the following events occurs—
  - (a) the end of 26 weeks after the determination of the maximum rent (LHA) referred to in paragraph (1)(c);
  - (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C (when a maximum rent (LHA) is to be determined) because the claimant has become entitled to a smaller category of dwelling;
  - (c) the relevant authority is required to determine an eligible rent following a change of dwelling; or
  - (d) the relevant authority is required to determine an eligible rent in accordance with regulation 12D(3) (protection on death).
- (4) Where the eligible rent ceases to apply because of paragraph (3)(a), the eligible rent will be the maximum rent (LHA) which would have applied but for the transitional protection in paragraph (2)(b).
- (5) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D.”
- (3) In regulation 13D(5) (determination of a maximum rent (LHA))—
  - (a) in paragraph (2)(c), at the end add “to a maximum of five bedrooms”; and
  - (b) omit paragraph (7).

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

3.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(6) shall be amended as follows.

- (2) Before regulation 13(7) insert—

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(4) Regulation 13C was inserted by [S.I. 2007/2868](#).

(5) Regulation 13D was inserted by [S.I. 2007/2868](#).

(6) [S.I. 2006/214](#).

(7) Regulation 13 was substituted by [S.I. 2007/2869](#). Regulations 12E to 12K are inserted by Schedule 10 to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 and apply to former pathfinder authorities. Schedule 10 was substituted by [S.I. 2007.2868](#).

**“Transitional protection – larger properties**

**12L.**—(1) This regulation applies where—

- (a) reference was made to a maximum rent (LHA) in determining the amount of the eligible rent which applied immediately before 6th April 2009;
- (b) the category of dwelling for which that maximum rent (LHA) was determined corresponded to a category of six or more bedrooms; and
- (c) on or after 6th April 2009 the relevant authority is required to determine a maximum rent (LHA) by virtue of—
  - (i) regulation 13C(2)(d)(i)(8) (change of category of dwelling), where it has not received notification of the death of a linked person; or
  - (ii) regulation 13C(3) (anniversary of the LHA date).

(2) Where this regulation applies, the claimant’s eligible rent is—

- (a) the maximum rent (LHA) where that is equal to or higher than the eligible rent that applied immediately before 6th April 2009; or
- (b) the amount of the eligible rent which applied immediately before 6th April 2009.

(3) Where the eligible rent is the amount of the eligible rent which applied immediately before 6th April 2009, it will continue to apply until, on or after 6th April 2009, the first of the following events occurs—

- (a) the end of 26 weeks after the determination of the maximum rent (LHA) referred to in paragraph (1)(c);
- (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C (when a maximum rent (LHA) is to be determined) because the claimant has become entitled to a smaller category of dwelling;
- (c) the relevant authority is required to determine an eligible rent following a change of dwelling; or
- (d) the relevant authority is required to determine an eligible rent in accordance with regulation 12D(3) (protection on death).

(4) Where the eligible rent ceases to apply because of paragraph (3)(a), the eligible rent will be the maximum rent (LHA) which would have applied but for the transitional protection in paragraph (2)(b).

(5) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D.”

(3) In regulation 13D(9) (determination of a maximum rent (LHA))—

- (a) in paragraph (2)(c), at the end add “to a maximum of five bedrooms”; and
- (b) omit paragraph (7).

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(8) Regulation 13C was inserted by S.I. 2007/2869.

(9) Regulation 13D was inserted by S.I. 2007/2869.

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

10th March 2009

*Kitty Ussher*  
Parliamentary Under Secretary of State  
Department for Work and Pensions

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## EXPLANATORY NOTE

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

These Regulations amend the Housing Benefit Regulations 2006 and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

Regulation 2 amends the Housing Benefit Regulations 2006. Paragraph (3) amends regulation 13D which sets out how a maximum rent (LHA) is to be calculated. Paragraph (2) of that regulation is amended so that the appropriate category of dwelling to which a claimant is entitled is limited to a maximum of five bedrooms.

Paragraph (2) inserts regulation 12L which provides transitional protection of up to 26 weeks for certain claimants whose housing benefit is calculated by reference to a local housing allowance rate for a property with six or more bedrooms.

Regulation 3 makes equivalent amendments to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

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