

2007 No. 1356

SOCIAL SECURITY

The Housing Benefit (Amendment) Regulations 2007

Made - - - - *26th April 2007*

Laid before Parliament *3rd May 2007*

Coming into force - - *1st October 2007*

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

The Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it(b).

In respect of these Regulations, the Secretary of State has consulted with organisations which appear to him to be representative of the authorities concerned(c).

Citation and commencement

- 1.—(1) These Regulations may be cited as the Housing Benefit (Amendment) Regulations 2007.
- (2) These Regulations shall come into force on 1st October 2007.

Amendment of the Housing Benefit Regulations 2006

- 2.—(1) The Housing Benefit Regulations 2006(d) are amended as follows.
- (2) In regulation 2(1) (interpretation) in sub-paragraph (a) of the definition of “shared ownership tenancy” for “tenancy” substitute “lease”.
- (3) In regulation 9 (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) after paragraph (1)(h) insert—

“(ha) he or his partner—

- (i) was a tenant under a long tenancy in respect of the dwelling; and
- (ii) less than five years have elapsed since that tenancy ceased,

except where he satisfies the appropriate authority that he or his partner could not have continued to occupy that dwelling without relinquishing the tenancy;”.

(a) 1992 c. 4. Section 130(2) was amended by paragraph 3 of Schedule 9 to the Local Government Finance Act 1992 (c.14) and paragraph 174 of Schedule 13 to the Local Government etc. (Scotland) Act 1994.

(b) 1992 (c.5) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992.

(c) See section 176(1) of the Social Security Administration Act 1992 (c.5) which was amended by section 103 of and paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c.14).

(d) S.I. 2006/213, to which there are amendments not relevant to these Regulations.

- (4) In regulation 12(2)(rent)—
- (a) in sub-paragraph (a) omit “granted by a housing association or a housing authority”;
 - (b) after sub-paragraph (e) insert—
 - “(f) payments by a person in respect of a dwelling where his partner is an owner of that dwelling.”.
- (5) In regulation 13(15) (maximum rent)—
- (a) after “claimant” insert “, or the claimant’s partner,”;
 - (b) for “his” substitute “the claimant’s”.
- (6) In regulation 16(1)(c) (application for redetermination by rent officer) for “6 weeks” substitute “one month”.
- (7) After Schedule 2, paragraph 11 (excluded tenancies) insert—
- “11A. This paragraph applies to a shared ownership tenancy.”.
- (8) Paragraph (6) shall apply only to decisions notified by the relevant authority to the person affected on or after 1st October 2007.

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 (a) are amended as follows.

(2) In regulation 2(1) (interpretation) in sub-paragraph (a) of the definition of “shared ownership tenancy” for “tenancy” substitute “lease”.

(3) In regulation 9 (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) after paragraph (1)(h) insert—

- “(ha) he or his partner—
 - (i) was a tenant under a long tenancy in respect of the dwelling, and
 - (ii) less than five years have elapsed since that tenancy ceased,
 except where he satisfies the appropriate authority that he or his partner could not have continued to occupy that dwelling without relinquishing the tenancy.”.

- (4) In regulation 12(2)(rent)—
- (a) in sub-paragraph (a) omit “granted by a housing association or a housing authority”;
 - (b) after sub-paragraph (e) insert—
 - “(f) payments by a person in respect of a dwelling where his partner is an owner of that dwelling.”.
- (5) In regulation 13(15) (maximum rent)—
- (a) after “claimant” insert “, or the claimant’s partner,”;
 - (b) for “his” substitute “the claimant’s”.
- (6) In regulation 16(1)(c) (application for redetermination by rent officer) for “6 weeks” substitute “one month”.
- (7) After Schedule 2, paragraph 11 (excluded tenancies) insert—
- “11A. This paragraph applies to a shared ownership tenancy.”.
- (8) Paragraph (6) shall only apply to decisions notified by the relevant authority to the person affected on or after 1st October 2007.

(a) S.I. 2006/214, to which there are amendments not relevant to these Regulations.

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

26th April 2007

James Plaskitt
Parliamentary Under Secretary of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit Regulations 2006 (S.I. 2006/213) and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214).

Regulations 2(3) and 3(3) provide that a person will be treated as not liable to make payments in respect of a dwelling and so will not be entitled to housing benefit if he or his partner ceased to be a tenant under a long tenancy of the dwelling within the previous 5 years. This does not apply if the claimant satisfies the housing benefit authority that he or his partner would not have been able to continue to occupy the property if they had not relinquished the long tenancy.

Regulations 2(4)(a) and 3(4)(a) provide that payments under any shared ownership lease are payments in respect of which housing benefit can be paid. Regulations 2(7) and 3(7) provide that shared ownership leases are to be “excluded tenancies” and therefore a claim for housing benefit in respect of a shared ownership lease cannot be referred to the Rent Officer.

Regulations 2(4)(b) and 3(4)(b) provides that where the claimant’s partner is the owner of a dwelling then payments by a claimant in respect of that dwelling are not eligible for housing benefit.

Regulations 2(5) and 3(5) provide that the amount of housing benefit payable to a claimant in respect of a dwelling will be subject to the maximum rent provisions from the beginning of his claim if his partner has claimed housing benefit in respect of that dwelling in the previous 52 weeks.

Regulations 2(6) and 3(6) provides that the period for making representations following a decision by a relevant authority relating to a Rent Officer’s determination or re-determination is one month from the day on which the person affected by the decision was notified of that decision.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the cost of business, charities and the voluntary sector.

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