

**EXPLANATORY MEMORANDUM TO  
THE HOUSING BENEFIT (DAILY LIABILITY ENTITLEMENT) AMENDMENT  
REGULATIONS 2007**

**2007 No. 294**

**1.** This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 This set of regulations contains amendments to The Housing Benefit Regulations 2006 (The HB Regulations) and to The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (The HB(SPC) Regulations). The regulations will amend the rules determining when HB starts and ends. The changes will mean that HB for accommodation with a daily rent liability, which is provided by the local authority under its duties to the homeless or to people temporarily unable to live in their own home, matches the period the person is living in the accommodation. The regulations also amend the end of entitlement provisions for all accommodation with a daily rent liability so that HB ends on the day a change ending entitlement happens.

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

3.1 None

**4. Legislative Background**

4.1 In April 2006, changes were made to the HB and HB(SPC) Regulations which included amendments to the new claims provisions and the provisions for determining the effective date of a change ending HB entitlement, where the person is living in a hostel with a daily rent liability. Those changes were in The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No.3) Regulations 2005. Following the introduction of the changes and a request by local authority practitioners, Ministers have decided to extend those provisions.

**5. Extent**

5.1 This instrument applies to Great Britain.

**6. European Convention on Human Rights**

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

## **7. Policy background**

### ***Amendments to the Housing Benefit new claims provisions.***

7.1 The general rule for determining the start of Housing Benefit entitlement is that it begins on the Monday following the date the claim is received, unless the claim is made in the same week as the start of the tenancy. When this happens, Housing Benefit can begin from the start of the tenancy.

7.2 In April 2006 the HB and HB(SPC) regulations were amended so that where a person is living in a hostel with a daily rent liability, their Housing Benefit entitlement can begin from the first day they moved into the hostel, even if their claim is not made in the same week as the date the tenancy started. The change was made to protect the HB payable for someone who moved into a hostel at the weekend, who would not be able to make their claim in the same week. Ministers believed that it was necessary to protect the HB for hostel dwellers as they are often vulnerable people.

7.3 Regulations 2(2) and 3(2) extend those provisions to properties provided by local authorities under their statutory duties to the homeless and to short-term leased accommodation<sup>1</sup>. Ministers wish to do this because, like hostel dwellers, occupants of such accommodation will have a daily rent liability and will be vulnerable and, as such, their Housing Benefit should be protected. As the properties are local authority properties for accounting purposes the change would simplify the administration of Housing Benefit.

### ***Amendments to the Housing Benefit provisions for determining the date entitlement ends***

7.4 The longstanding general provision for a change of circumstances ending entitlement was that HB continued to the end of the benefit week<sup>2</sup> in which the change occurred. However, if the change was a person moving out of a property, HB was paid up to the day of vacation, if the rent liability was anything other than weekly.

7.5 In April 2006 the provisions for determining the effective date of a change were amended so that the effective date for any change is the first day of the following benefit week. There is an exception for hostels with a daily rent liability. For such claims, the effective date is the day the change actually occurs. The exception was made so that, in conjunction with the changes made for the start of a claim, Housing Benefit for a hostel with a daily rent liability would always match the period of occupancy.

7.6 Regulations 2(3) and 3(3) extend the exception for hostels with a daily rent liability to all tenancies with a daily rent liability. The change is being made for two reasons. First, people living in accommodation with a daily rent liability normally have an unsettled lifestyle and, like hostel dwellers, their HB entitlement normally ends because they have vacated the property. Therefore, for accommodation not provided under the homeless/short-term lease provisions, the payment of HB would be sent to the claimant or the landlord, either of whom would be able to keep the money, even though the liability and occupation had ended.

7.7 Second, local authorities would be rebating the rent payable for accommodation provided under the homeless/short-term lease provisions, (which also has a daily liability) for

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<sup>1</sup> In addition to persons that they are required to house under the homeless legislation, local authorities may house a person in a property with a short-term lease if the person is currently unable to live in their own home but intends to return – for example the home is flooded.

<sup>2</sup> A benefit week runs from a Monday to the following Sunday

periods when the person was no longer occupying the property. For accounting purposes such property is effectively local authority property, therefore, any mis-match between the rebate and the period of occupation creates administrative problems.

### ***Consultation***

7.8 The proposals were developed in conjunction with practitioners from local authorities. When making changes to Housing Benefit regulations it is agreed practice to normally allow a six month lead in time so that local authorities may make any necessary changes to administrative procedures. Because the changes will simplify administration, the practitioners have asked for the amendments to be introduced from the start of the 2007 financial year and have consequently agreed to shorten the lead in time.

7.9 The Local Authority Associations were given a seven week consultation period. They have said that they fully support the amendments. The regulations were considered by the Social Security Advisory Committee at its meeting on 6 December 2006. The Committee agreed that proposals in respect of these regulations need not be referred to it.

### ***Guidance***

7.10 Local Authorities, who administer claims for Housing Benefit and Council Tax Benefit on behalf of the Department for Work and Pensions, will receive guidance on the changes in the form of an Administration Circular, once the regulations have been made and laid.

7.11 That guidance and the Statutory Instrument will be placed on the DWP website so that it is available to local authorities and any interested party.

### ***Consolidation***

7.12 The DWP has only recently conducted an exercise to consolidate the Housing Benefit and Council Tax Benefit Regulations. The consolidated regulations came into force on 6<sup>th</sup> March 2006. Therefore, there are no plans to carry out a further exercise in the near future. However, an informal consolidated text will be available on the DWP website approximately three to four months after the regulations come into force.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 With regard to the impact on the public sector, the measures are expected to cancel each other and to be cost neutral.

## **9. Contact**

9.1 Christine Watkins at the Department for Work and pensions Tel 0207 962 8658 or e.mail: [Christine.Watkins@dwp.gsi.gov.uk](mailto:Christine.Watkins@dwp.gsi.gov.uk) can answer any queries regarding this instrument.