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STATUTORY INSTRUMENTS

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**2008 No. 586**

**SOCIAL SECURITY**

**The Housing Benefit (Local Housing Allowance, Information Sharing and Miscellaneous) Amendment Regulations 2008**

<i>Made</i>	- - - -	<i>3rd March 2008</i>
<i>Laid before Parliament</i>		<i>10th March 2008</i>
<i>Coming into force</i>	- -	<i>7th April 2008</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 123(1)(d), 130A(2) to (4), 137(1) and 175(1) and (3), (4) and (6) of the Social Security Contributions and Benefits Act 1992(1), sections 5(2A) to (2C), 75(3)(b), 189(1) and (3) to (6) and 191 of the Social Security Administration Act 1992(2) and paragraph 4(4A) and (6) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(3).

This instrument contains only regulations made by virtue of, or consequential upon, sections 30 and 35 of the Welfare Reform Act 2007(4) and is made before the end of the period of six months beginning with the coming into force of those sections.

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

**Citation and commencement**

1. These Regulations may be cited as the Housing Benefit (Local Housing Allowance, Information Sharing and Miscellaneous) Amendment Regulations 2008 and shall come into force on 7th April 2008.

**Amendment of the Housing Benefit Regulations 2006**

2.—(1) The Housing Benefit Regulations 2006(5) shall be amended as follows.

(2) In regulation 101 (persons from whom recovery may be sought)—

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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 the word “prescribed”.
- (2) 1992 c.5. Section 5(2A), (2B) and (2C) was inserted by section 35 of the Welfare Reform Act 2007. Section 191 is an interpretation provision and is cited for the meaning of the word “prescribe”.
- (3) 2000 c.19. Paragraph 4(4A) was inserted by section 30 of the Welfare Reform Act 2007.
- (4) 2007 c.5.
- (5) S.I. 2006/213; the relevant amending instrument is S.I. 2005/2904 (as amended by S.I. 2006/217).

(a) after paragraph (2) insert—

“(2A) Where an overpayment is made in a case where a relevant authority has determined a maximum rent (LHA) in accordance with regulation 13D (determination of a maximum rent (LHA)), and the housing benefit payable exceeds the amount which the claimant is liable to pay his landlord by way of rent, the relevant authority must not recover from the landlord more than the landlord has received.”; and

(b) in paragraph (3) for “paragraph (1)” substitute “paragraphs (1) and (2A)”.

### **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) In regulation 82 (persons from whom recovery may be sought)—

(a) after paragraph (2) insert—

“(2A) Where an overpayment is made in a case where a relevant authority has determined a maximum rent (LHA) in accordance with regulation 13D (determination of a maximum rent (LHA)), and the housing benefit payable exceeds the amount which the claimant is liable to pay his landlord by way of rent, the relevant authority must not recover from the landlord more than the landlord has received.”; and

(b) in paragraph (3) for “paragraph (1)” substitute “paragraphs (1) and (2A)”.

### **Amendment of the Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007**

4.—(1) The Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007(7) shall be amended as follows.

(2) In regulation 3 (amendment of the Housing Benefit Regulations 2006 relating to information sharing)—

(a) in paragraph (1)(b), in the inserted paragraph (4A) for “regulation 114A(6)” substitute “regulation 114A(5)”; and

(b) in paragraph (2), in paragraph (1)(b) of the inserted regulation 114A for “regulation 12A” substitute “regulation 12D”.

(3) In regulation 4(1)(g) (amendments to regulation 2 of the Housing Benefit Regulations 2006) for the inserted definition of “registered housing association” substitute—

““registered housing association” means a housing association which—

(a) is registered in a register maintained by the Corporation or the National Assembly for Wales under Chapter 1 of Part 1 of the Housing Act 1996(8); or

(b) in Scotland, is registered by Scottish Ministers by virtue of section 57(3)(b) of the Housing (Scotland) Act 2001(9),

and “the Corporation” has the same meaning as in section 56 of the Housing Act 1996;”.

(4) In regulation 7 (insertion of regulations 13C, 13D and 13E into the Housing Benefit Regulations 2006)—

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(6) S.I. 2006/214; the relevant amending instrument is S.I. 2005/2904 (as amended by S.I. 2007/217).

(7) S.I. 2007/2868.

(8) 1996 c.52.

(9) 2001 asp 10.

- (a) in the inserted regulation 13C(5) for “falling within any of paragraphs 4 to 10” substitute “mentioned in any of paragraphs 4 to 11”; and
  - (b) in the inserted regulation 13D(2)(b) after “size criteria” insert “as set out in paragraph (3)”.
- (5) In regulation 8 (substitution of regulation 14 of the Housing Benefit Regulations 2006), in the substituted paragraph 14—
- (a) in paragraph (1)(f)—
    - (i) for “or (e)” substitute “, (e) or (h)”;
    - (ii) in paragraph (ii) omit “or”;
  - (b) after paragraph (1)(g) add—
    - “or
    - (h) has received notification that any of the circumstances in regulation 13C(5) apply.”;
  - (c) in paragraph (8) omit the definition of “the Corporation”.
- (6) In regulation 19 (amendment of Schedules 7 and 8 to the Housing Benefit Regulations 2006) for “paragraph 3(2)” substitute “paragraph 3(3)”.

#### **Amendment of the Housing Benefit (State Pension Credit) (Local Housing Allowance and Information Sharing) Amendment Regulations 2007**

5.—(1) The Housing Benefit (State Pension Credit) (Local Housing Allowance and Information Sharing) Amendment Regulations 2007(10) shall be amended as follows.

(2) In regulation 3 (amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 relating to information sharing)—

- (a) in paragraph (1)(b), in the inserted paragraph (4A) for “regulation 95A(6)” substitute “regulation 95A(5)”;
- (b) in paragraph (2), in paragraph (1)(b) of the inserted regulation 114A for “regulation 12A” substitute “regulation 12D”.

(3) In regulation 4(1)(f) (amendments to regulation 2 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006) for the inserted definition of “registered housing association” substitute—

““registered housing association” means a housing association which—

- (a) is registered in a register maintained by the Corporation or the National Assembly for Wales under Chapter 1 of Part 1 of the Housing Act 1996; or
- (b) in Scotland, is registered by Scottish Ministers by virtue of section 57(3)(b) of the Housing (Scotland) Act 2001,

and “the Corporation” has the same meaning as in section 56 of the Housing Act 1996;”.

(4) In regulation 7 (insertion of regulations 13C, 13D and 13E into the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006)—

- (a) in the inserted regulation 13C(5)(c) in the inserted regulation 13C(5) for “falling within any of paragraphs 4 to 10” substitute “mentioned in any of paragraphs 4 to 11”; and
- (b) in the inserted regulation 13D—
  - (i) in paragraph (2)(a) for paragraph (ii) substitute—

“(ii) the claimant’s partner is not a care leaver;”;

(ii) in paragraph (2)(b) after “size criteria” insert “as set out in paragraph (3)”.

(5) In regulation 8 (substitution of regulation 14 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006), in the substituted paragraph 14—

(a) in paragraph (1)(f)—

(i) for “or (e)” substitute “, (e) or (h)”; and

(ii) in paragraph (ii) omit “or”; and

(b) after paragraph (1)(g) add—

“or

(h) has received notification that any of the circumstances in regulation 13C(5) apply.”; and

(c) in paragraph (8) omit the definition of “the Corporation”.

(6) In regulation 15 (amendment of regulations 59 and 60 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006) for paragraph (1) substitute—

“(1) In regulation 59 (date of which change of circumstances is to take effect)—

(a) in paragraph (1) for “regulations 60 and 61(6)” substitute “regulations 60 and 61(5)”; and

(b) in paragraph (3) for “regulation 61(6)” substitute “regulation 61(5)”.

### **Amendment of the Housing Benefit (Local Housing Allowance, Miscellaneous and Consequential) Amendment Regulations 2007**

**6.—(1)** The Housing Benefit (Local Housing Allowance, Miscellaneous and Consequential) Amendment Regulations 2007(**11**) shall be amended as follows.

(2) In regulation 4 (amendment of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001)—

(a) in paragraph (3), in the inserted regulation 7A(2) for “regulation 13C” in both places in which it occurs substitute “regulation 13C(3)”; and

(b) in paragraph (4)(b), for the substituted paragraph (15) substitute—

“(15) A decision to which regulation 7A(2) applies shall take effect—

(a) on the day of decision, where the determination in accordance with regulation 13C(3) of the Housing Benefit Regulations or regulation 13C(3) of the Housing Benefit (State Pension Credit) Regulations (when maximum rent (LHA) is to be determined) was made on the first day of the benefit week; and

(b) in any other case, on the first day of the benefit week following the week in which the determination in accordance with regulation 13C(3) of the Housing Benefit Regulations or regulation 13C(3) of the Housing Benefit (State Pension Credit) Regulations (when maximum rent (LHA) is to be determined) was made.”.

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

3rd March 2008

*Stephen C. Timms*  
Minister of State,  
Department for Work and Pensions

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

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

These Regulations amend:

- the Housing Benefit Regulations 2006 (“the Housing Benefit Regulations”)
- the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (“the Housing Benefit (State Pension Credit) Regulations”)
- the Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007 (“the Housing Benefit (Local Housing Allowance) Regulations”)
- the Housing Benefit (State Pension Credit) (Local Housing Allowance and Information Sharing) Amendment Regulations 2007 (“the Housing Benefit (State Pension Credit) (Local Housing Allowance) Regulations”)
- the Housing Benefit (Local Housing Allowance, Miscellaneous and Consequential) Amendment Regulations 2007 (“the Housing Benefit (Local Housing Allowance) Miscellaneous Regulations”)

Regulation 2 amends regulation 101 of the Housing Benefit Regulations. It inserts a new paragraph (2A) which provides that where a claimant’s housing benefit exceeds the amount he is liable to pay to the landlord as rent and there is an overpayment that is recoverable from the claimant’s landlord, the local authority cannot recover from the landlord more than the amount that was paid to him.

Regulation 3 makes the same amendment to the equivalent provision of the Housing Benefit (State Pension Credit) Regulations.

Regulation 4 makes amendments to the Housing Benefit (Local Housing Allowance) Regulations. Paragraph (2) amends cross-references in the amendments made in regulation 3 of the Housing Benefit (Local Housing Allowance) Regulations.

Paragraph (3) substitutes a new definition of “registered housing association” to include the definition of “the Corporation”.

Paragraph (4) amends regulation 13C of the Housing Benefit Regulations, as inserted by regulation 7 of the Housing Benefit (Local Housing Allowance) Regulations, to add certain types of former local authority property to the categories of cases to which the local housing allowance arrangements do not apply. It also clarifies the meaning of “size criteria” in regulation 13D(2) of the Housing Benefit Regulations as inserted by regulation 7 of the Housing Benefit (Local Housing Allowance) Regulations.

Paragraph (5) makes an amendment to regulation 14 of the Housing Benefit Regulations as substituted by regulation 8 of the Housing Benefit (Local Housing Allowance) Regulations. This is to provide a mechanism for referring cases to rent officers for determinations where a claimant’s circumstances change so that he falls within one of the categories of cases where the local housing allowance arrangements do not apply.

Paragraph (6) amends a reference in regulation 19 of the Housing Benefit (Local Housing Allowance) Regulations.

Regulation 5 makes similar amendments to the Housing Benefit (State Pension Credit) (Local Housing Allowance) Regulations with some minor differences. Paragraph (3) also amends regulation 13D(2)(a)(i) of the Housing Benefit Regulations, as inserted by regulation 7 of the

Housing Benefit (State Pension Credit) (Local Housing Allowance) Regulations, to clarify that the provision applies where the claimant's partner is a care leaver.

Paragraph (5) amends regulation 15 of the Housing Benefit (State Pension Credit) (Local Housing Allowance) Regulations to correct the amendment being made by that regulation.

Regulation 6 amends regulation 4 of the Housing Benefit (Local Housing Allowance) Miscellaneous Regulations. Paragraph (2) clarifies the provisions referred to in paragraph (2) of the inserted regulation 7A of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 ([S.I. 2001/1002](#)) ("the Decisions and Appeals Regulations"). Paragraph (3) amends the substituted regulation 8(15) in the Decisions and Appeals Regulations.

A full impact assessment has not been produced for this instrument as it has only a negligible impact on the private or voluntary sectors.