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STATUTORY INSTRUMENTS

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**2013 No. 665**

**The Housing Benefit (Amendment) Regulations 2013**

**Amendment of the Housing Benefit Regulations 2006**

- 2.—(1) The Housing Benefit Regulations 2006(1) are amended as follows.
- (2) In regulation 2(1)(2) (interpretation)—
- (a) after the definition of “maximum rent (LHA)” insert—
- ““member of the armed forces away on operations” means a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006(3)) who is absent, while on operations, from the dwelling usually occupied as their home;”;
- (b) after the definition of “qualifying income-related benefit” insert—
- ““qualifying parent or carer” means a person who has a bedroom in the dwelling they occupy as their home additional to those used by the persons who occupy the dwelling as their home and who—
- (a) has a child or qualifying young person placed with them as mentioned in regulation 21(3) who by virtue of that provision is not treated as occupying their dwelling; or
- (b) has been approved as a foster parent under regulation 27 of the Fostering Services (England) Regulations 2011(4) or regulation 28 of the Fostering Services (Wales) Regulations 2003(5) or as a kinship carer under regulation 10 or a foster carer under regulation 22 of the Looked After Children (Scotland) Regulations 2009(6) but does not have a child or qualifying young person placed with them and has not had a child or qualifying young person placed with them for a period which does not exceed 52 weeks;”.
- (3) In regulation B13(7) (determination of a maximum rent (social sector))—
- (a) in paragraph (2)(b) for “paragraph (5)” substitute “paragraphs (5) to (7)”;
- (b) in paragraph (5) omit the words after sub-paragraph (e);
- (c) after paragraph (5) add—
- “(6) The claimant is entitled to one additional bedroom in any case where—
- (a) the claimant or the claimant’s partner is (or each of them is) a person who requires overnight care; or
- (b) the claimant or the claimant’s partner is (or each of them is) a qualifying parent or carer.

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(1) [S.I. 2006/213](#).  
(2) The definition of “maximum rent (LHA)” was inserted by [S.I. 2007/2868](#) and the definition of “qualifying income-related benefit” was inserted by [S.I. 2008/959](#).  
(3) [2006 c.52](#).  
(4) [S.I. 2011/581](#).  
(5) [S.I. 2003/237](#).  
(6) [S.S.I. 2009/210](#).  
(7) Regulation B13 is inserted by [S.I. 2012/3040](#).

(7) The claimant is entitled to two additional bedrooms where paragraph (6)(a) and (b) both apply.

(8) For the purposes of determining the number of occupiers of the dwelling under paragraph (5), the relevant authority must include any member of the armed forces away on operations who—

- (a) is the son, daughter, step-son or step-daughter of the claimant or the claimant's partner;
- (b) was the claimant's non-dependant before they became a member of the armed forces away on operations; and
- (c) intends to resume occupying the dwelling as their home when they cease to be a member of the armed forces away on operations.”.

(4) In regulation 13D(8) (determination of a maximum rent (LHA))—

- (a) in paragraph (2)(c) for “paragraph (3)” substitute “paragraphs (3) to (3B)”;
- (b) in paragraph (3) omit the words after sub-paragraph (e);
- (c) after paragraph (3) add—

“(3A) The claimant is entitled to one additional bedroom in any case where—

- (a) the claimant or the claimant's partner is (or each of them is) a person who requires overnight care; or
- (b) the claimant or the claimant's partner is (or each of them is) a qualifying parent or carer.

(3B) The claimant is entitled to two additional bedrooms where paragraph (3A)(a) and (b) both apply.”;

(d) in paragraph (12) for the definition of “occupiers” substitute—

““occupiers” means—

- (a) the persons whom the relevant authority is satisfied occupy as their home the dwelling to which the claim or award relates except for any joint tenant who is not a member of the claimant's household; and
- (b) any member of the armed forces away on operations who—
  - (i) is the son, daughter, step-son or step-daughter of the claimant or the claimant's partner;
  - (ii) was the claimant's non-dependant before they became a member of the armed forces away on operations; and
  - (iii) intends to resume occupying the dwelling as their home when they cease to be a member of the armed forces away on operations;”.

(5) In regulation 14(8) (requirement to refer to rent officers) in the definition of “change relating to a rent allowance”(9) for “or (f)” substitute “(f) or (g)”.

(6) In regulation 74(10) (non-dependant deductions) after paragraph (7)(f) add—

“(g) he is not residing with the claimant because he is a member of the armed forces away on operations.”.

(7) In paragraph 2 of Schedule 2 (excluded tenancies)(11)—

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(8) Regulation 13D was inserted by S.I. 2007/2868 (as amended by S.I. 2008/586) and amended by S.I. 2009/614 and 2010/2835.

(9) The definition of “change relating to a rent allowance” was amended by S.I. 2010/2835.

(10) Regulation 74 was substituted by S.I. 2007/2868. There are amendments not relevant to this instrument.

(11) Paragraph 2 was substituted by S.I. 2007/2868 and amended by S.I. 2010/2835.

(a) in sub-paragraph (3) after paragraph (f) add—

“(g) the claimant or the claimant’s partner becomes, or ceases to be, a qualifying parent or carer where that affects the size criteria, as set out in Schedule 2 to the Rent Officers Order, applicable in the claimant’s case.”;

(b) after sub-paragraph (3) add—

“(4) For the purposes of sub-paragraph (3)(d)(iii) it does not amount to a change in the composition of the household where a son, daughter, step-son or step-daughter of the claimant or the claimant’s partner who is the claimant’s non-dependant ceases to occupy the dwelling as their home because they become a member of the armed forces away on operations, or subsequently resumes occupying the dwelling as their home on ceasing to be a member of the armed forces away on operations.”.