

2014 No. 213

SOCIAL SECURITY

**The Housing Benefit (Miscellaneous Amendments) Regulations
2014**

Made - - - - 30th January 2014

Laid before Parliament 6th February 2014

Coming into force in accordance with regulation 1

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) and (4), 135(1) and (6), 136(3) and (4), 137(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(a), sections 5(1)(a) and 189(1), (4) and (6) of the Social Security Administration Act 1992(b), section 79(4) of the Social Security Act 1998(c) and paragraphs 4(4) and (6), 20(1) and 23(1) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(d).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Secretary of State has obtained the agreement of the Social Security Advisory Committee that the proposals in respect of these Regulations should not be referred to it.

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

Citation and commencement

1.—(1) These Regulations may be cited as the Housing Benefit (Miscellaneous Amendments) Regulations 2014.

(2) This regulation and regulation 2 come into force on 31st March 2014.

(3) Regulations 3 and 4 come into force—

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- (a) 1992 c.4. Section 130A was inserted by section 30(2) of the Welfare Reform Act 2007 (c.5) and amended by section 69 of the Welfare Reform Act 2012 (c.5). Section 137(1) is an interpretation provision and is cited for the definition of “prescribed”. Section 175(1) was amended by Schedule 3, paragraph 29, to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).
- (b) 1992 c.5. Section 189(4) was amended by paragraphs 109(c), (d) and (e) of Schedule 7 and Schedule 8 to the Social Security Act 1998 (c.14) and paragraph (4) and (6) were amended by S.I. 2013/252. Section 191 is an interpretation provision and is cited for the definition of “prescribe”. The definition of “prescribe” was amended by paragraphs 2 and 10 of Schedule 5 to the Welfare Reform Act 2007.
- (c) 1998 c.14. Section 79(4) is applied to the provisions of the Child Support, Pensions and Social Security Act 2000 (c.19) by Schedule 7, paragraph 20(3) of that Act.
- (d) 2000 c.19. Paragraph 23(1) is an interpretation provision and is cited for the definition of “prescribed”.
- (e) Section 176(1) was amended by Schedule 9, paragraph 23, to the Local Government Finance Act 1992 (c.14), Schedule 13, paragraph 3(4), to the Housing Act 1996 (c.52) and section 69(6) of the Child Support, Pensions and Social Security Act 2000.

- (a) in relation to any case where rent is payable at intervals of a week or any multiple of a week, on 7th April 2014; or
- (b) in relation to any other case, on 1st April 2014.

Amendment of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

2.—(1) The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(a) are amended as follows.

(2) In regulation 7(2) (decisions superseding earlier decisions)(b)—

- (a) in sub-paragraph (i) for “or (q)” substitute “, (q) or (s)”;
- (b) after sub-paragraph (r) add—

“(s) which is affected by the award of personal independence payment under Part 4 of the Welfare Reform Act 2012(c) where—

- (i) the claimant, the claimant’s partner or a member of the claimant’s family (“P”) was entitled to disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992; and
- (ii) subsequent to the first day of the period to which the claimant’s entitlement to housing benefit relates, P becomes entitled to personal independence payment as a transfer claimant (within the meaning of regulation 2(1) of the Personal Independence Payment (Transitional Provisions) Regulations 2013(d)).”.

(3) In regulation 8 (date from which a decision superseding an earlier decision takes effect)(e) after paragraph (14F) add—

“(14G) A superseding decision made in consequence of regulation 7(2)(s) shall take effect—

- (a) on 1st April in a case where—
 - (i) the claimant’s weekly amount of eligible rent falls to be calculated in accordance with regulation 80(2)(b) or (c) of the Housing Benefit Regulations or, as the case may be, regulation 61(2)(b) or (c) of the Housing Benefit (State Pension Credit) Regulations; and
 - (ii) the decision to award personal independence payment takes effect in the same benefit week as the 1st April;
- (b) on the first Monday in April in a case where—
 - (i) the claimant’s weekly amount of eligible rent falls to be calculated in accordance with regulation 80(2)(a) of the Housing Benefit Regulations or, as the case may be, regulation 61(2)(a) of the Housing Benefit (State Pension Credit) Regulations; and
 - (ii) the decision to award personal independence payment takes effect in the same benefit week as the first Monday in April;
- (c) in any other case, on the day after the last day of entitlement to disability living allowance.”.

Amendment of the Housing Benefit Regulations 2006

3.—(1) The Housing Benefit Regulations 2006(f) are amended as follows.

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- (a) S.I. 2001/1002.
 - (b) Sub-paragraph (i) was substituted by S.I. 2003/2275 and amended by S.I. 2008/1082 (as amended by S.I. 2008/2428) and S.I. 2010/1907 (as amended by S.I. 2010/2430). Sub-paragraph (r) was inserted by S.I. 2012/2994.
 - (c) 2012 c.5.
 - (d) S.I. 2013/387.
 - (e) Paragraph (14F) was inserted by S.I. 2012/2994.
 - (f) S.I. 2006/213.

- (2) In regulation 2(1) (interpretation)(a) in the definition of “young individual”—
- (a) at the end of paragraph (h) omit “or”;
 - (b) renumber as paragraph (j) the paragraph (i) added by regulation 2(2)(b)(ii) of the Housing Benefit and Universal Credit (Size Criteria) (Miscellaneous Amendments) Regulations 2013(b);
 - (c) after the paragraph (i) added by paragraph 23(3) of Schedule 1 to the Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013(c) add “or”.
- (3) In regulation 28 (treatment of child care charges)(d)—
- (a) in paragraph 11(e) for “or allowance to which head (ii), (iv), (v) or (vi)” substitute “, allowance or payment to which head (ii), (iv), (v), (vi) or (viii)”;
 - (b) in paragraph (13)(d) for “would be payable but for” substitute “has ceased to be payable solely by virtue of”.
- (4) In the following provisions for “social security contributions” substitute “national insurance contributions”—
- (a) regulation 34(c) (disregard of changes in tax, contributions etc);
 - (b) in regulation 38 (calculation of net profit of self-employed earners)—
 - (i) paragraph (1)(b)(i);
 - (ii) paragraph (3)(b)(ii);
 - (iii) paragraph (9)(a)(ii);
 - (c) regulation 39(2) (deduction of tax and contributions of self-employed earners).
- (5) In regulation 87(1) (amendment and withdrawal of claim)(e) for “determination” substitute “decision”.
- (6) In Schedule 3 (applicable amounts)(f)—
- (a) in paragraph 13 (Additional Condition for the Disability Premium) for sub-paragraph (1)(a)(iia) substitute—
 - “(iia) was in receipt of personal independence payment that is no longer payable by virtue of regulations made under section 86(1) (hospital in-patients) of the 2012 Act.”;
 - (b) in paragraph 14 (Severe Disability Premium) in sub-paragraph (5)(c) after “but for” insert “payment ceasing by virtue of”;
 - (c) in paragraph 15 (Enhanced disability premium) in sub-paragraph (1)(c) for “, or would, but for regulations made under section 86(1) (hospital in-patients) of the 2012 Act be payable” substitute “payable, or has ceased to be payable by virtue of regulations made under section 86(1) (hospital in-patients) of the 2012 Act.”;
 - (d) in paragraph 16 (Disabled child premium) in paragraph (d) after “but for” insert “payment ceasing by virtue of”.

(a) The definition of “young individual” was substituted by S.I. 2007/2868 and amended by S.I. 2011/1736 and 1740, 2010/2835, 2013/1465 and 2013/2828.

(b) S.I. 2013/2828.

(c) S.I. 2013/1465.

(d) Paragraph 11(e) was amended by S.I. 2005 and 3360 (both as amended by S.I. 2006/217). Paragraph (13)(d) was inserted by S.I. 2013/388 and substituted by S.I. 2013/591.

(e) Regulation 87 was substituted by S.I. 2008/2299 and paragraph (1) was substituted by S.I. 2013/2536.

(f) Paragraphs 13(1)(a)(iia), 14(5)(c), 15(1)(c) and 16(d) were inserted by S.I. 2013/388. Paragraphs 15(1)(c) and 16(d) were amended by S.I. 2013/591.

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

4.—(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 31 (treatment of child care charges)(b)—

- (a) in paragraph 11(e) for “or allowance to which head (ii), (iv), (v) or (vi)” substitute “, allowance or payment to which head (ii), (iv), (v), (vi) or (viii)”;
- (b) in paragraph (13)(d) for “would be payable but for” substitute “has ceased to be payable solely by virtue of”.

(3) In the following provisions for “social security contributions” substitute “national insurance contributions”—

- (a) regulation 34(c) (disregard of changes in tax, contributions etc);
- (b) in regulation 39 (calculation of net profit of self-employed earners)—
 - (i) paragraph (1)(b)(i);
 - (ii) paragraph (2)(b)(ii);
 - (iii) paragraph (8)(a)(ii);
- (c) regulation 40(2) (deduction of tax and contributions of self-employed earners).

(4) In regulation 68(1) (amendment and withdrawal of claim)(c) for “determination” substitute “decision”.

(5) In Schedule 3 (applicable amounts)(d)—

- (a) in paragraph 6 (Severe disability premium) in sub-paragraph (7)(c) after “but for” insert “payment ceasing by virtue of”;
- (b) in paragraph 7 (Enhanced disability premium) in sub-paragraph (1)(b) for “, or would, but for” substitute “payable, or has ceased to be payable by virtue of”;
- (c) in paragraph 8 (Disabled child premium) in paragraph (d) after “but for” insert “payment ceasing by virtue of”.

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

Freud
Parliamentary Under Secretary of State
Department for Work and Pensions

30th January 2014

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001, the Housing Benefit Regulations 2006 (“the Housing Benefit Regulations”) and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

Regulation 2 amends the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 to allow for a supersession of a housing benefit award when a claimant who was receiving disability living allowance transfers onto personal independence payment. The effective date of such a change will be the first day after entitlement to disability living allowance ends except where the change occurs in same weeks as the 1st April or the first full week in April. In those cases the change will align with other changes to housing benefit and take effect on 1st April

(a) S.I. 2006/214.

(b) Paragraph (13)(d) was inserted by S.I. 2013/388 and substituted by S.I. 2013/591.

(c) Regulation 68 was substituted by S.I. 2008/2299 and paragraph (1) was substituted by S.I. 2013/2536.

(d) Paragraphs 6(7)(c) and 8(d) were inserted, and paragraph 7(1) substituted, by S.I. 2013/388. Paragraphs 7(1) and 16(d) were amended by S.I. 2013/591.

or the first Monday of April, respectively, depending on the frequency of the claimant's rental liability.

Regulation 3(2) amends the definition of "young individual" in the Housing Benefit Regulations. This corrects an error in numbering and ensures that the paragraph added by the Housing Benefit and Universal Credit (Size Criteria) (Miscellaneous Amendments) Regulations 2013 (S.I. 2013/2828) is numbered (j) and follows the paragraph (i) added by Children's Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order (S.I. 2013/1465).

Regulation 3(3) and (6) amends the Housing Benefit Regulations in various places to provide that a person is treated as receiving personal independence payment while in hospital only where payment ceases because the person has gone into hospital (rather than claimed in hospital). Regulation 3(3) also makes a consequential amendment to add a missing cross-reference relating to personal independence payment.

Regulation 3(4) amends the Housing Benefit Regulations to update references to the "social security contributions" of self-employed earners to "national insurance contributions". Regulation 3(5) corrects a reference to "determination" so that it refers to a "decision".

Regulation 4 makes similar amendments to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, except that there is no amendment to the definition of "young individual" as the Regulations do not apply to them.

A full impact assessment has not been produced for this instrument as it has no impact on the private sector or civil society organisations.

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