

EXPLANATORY MEMORANDUM TO

THE HOUSING BENEFIT (MISCELLANEOUS AMENDMENTS) REGULATIONS 2014

2014 No. 213

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. Purpose of the instrument

2.1 The purpose of this instrument is to amend:

the Housing Benefit regulations 2006 (SI 2006/213) (www.dwp.gov.uk/docs/a8-2501.pdf);

the Housing Benefit (Persons who have attained the qualifying age for state pension credit) regulations 2006 (SI 2006/214) (www.dwp.gov.uk/docs/a8-2901.pdf); and

the Housing Benefit and Council Tax Benefit (Decisions and Appeals) regulations 2001 (SI 2001/1002) (www.dwp.gov.uk/docs/a8-2321.pdf);

as a consequence of the introduction of the Personal Independence Payment (PIP) from April 2013 and also the start of the reassessment of Disability Living Allowance (DLA) claims from October 2013.

2.2 The regulations also make minor amendments to update references in Housing Benefit regulations, make a minor change in wording in connection with decision making and correct the paragraph numbering in the definition “young individual”.

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

None

4. Legislative Context

4.1 The Housing Benefit regulations which apply when a claimant declares a change of circumstances, such as the award of a new benefit or change to the amount of benefit, dictate when the change should take effect. Usually changes take effect from the start of the benefit week following the date changes actually occur. However, if a change occurs at the same time as a change in rent, or when Housing Benefit is uprated as part of the annual uprating of benefits in April each year, the change takes effect from the date of the rent change or the uprating, whichever applies. In the case of awards of a new benefit however, the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 (Decisions and Appeals Regulations) provide that the change is effective from the beginning of entitlement to that benefit.

4.2 For claimants transferring from DLA to PIP under the reassessment exercise referred to in paragraph 2.1 above, cessation of entitlement to DLA will dovetail with commencement of entitlement to PIP. Certain premiums used in the Housing Benefit

assessment are dependent upon entitlement to DLA or PIP. However, the interaction of the Housing Benefit change of circumstance provisions with the Housing Benefit Decisions and Appeals Regulations in linking the cessation of DLA to a change in rent or to uprating (where those occur around the same time as the end of DLA) would result in loss of premiums for short periods, as a gap would be created between when DLA is held to cease and when PIP is held to start. The amendments in these Regulations correct those problems.

4.3 Amendments are also made so that certain premiums and rules relating to the disregard of child care charges may continue when a claimant who is also in receipt of PIP enters hospital. This brings PIP claimants into line with the way that DLA claimants are treated when they enter hospital. The amendments are required to clarify that it is only people already receiving PIP when they enter hospital who are covered by the relevant provisions, not those who claim PIP when in hospital.

4.4 Minor amendments are also being made to update references in the Housing Benefit regulations from “social security contributions” to “national insurance contributions”, to change a word in connection with decision making in Housing Benefit and, in the Housing Benefit regulations applying to those of working age, to correct the paragraph numbering in the definition of “young individual”.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

5.2 Similar statutory rules are to be introduced to Northern Ireland.

6. European Convention on Human Rights

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

7. Policy background

7.1 This instrument will come into force on 31st March 2014.

7.2 The existing Housing Benefit legislation provides for premiums to those in receipt of DLA and PIP. Where a claimant is transferring from DLA to PIP, the policy intention is that Housing Benefit should not be affected by that change, and should reflect the fact that the cessation of DLA should dovetail with the start of entitlement to PIP.

7.3 However, there would be a gap in claimants’ entitlement to the Housing Benefit premiums at the time of the transition from DLA to PIP as a result of the interaction between the change of circumstance provisions within the Housing Benefit regulations on the one hand, and the Housing Benefit & Council Tax Benefit (Decisions and Appeals) Regulations on the other. This means that, contrary to the intention, claimants’ Housing Benefit would be affected.

7.4 Where a PIP claimant enters hospital, PIP continues in payment for 4 weeks but is then withdrawn. Housing Benefit child care disregard provisions, and various Housing Benefit premiums, are conditional on receipt of PIP having ceased following admission to hospital. This supports rules which allow for Housing Benefit remaining unaltered during periods of temporary absence, which include periods of hospitalisation. However, the

current provisions are imprecisely drafted and could be interpreted as including people who claim PIP after hospitalisation. Although PIP can be claimed when a person is in hospital, it is not payable until they are discharged. Currently, the Housing Benefit system does not reflect the presence of DLA in these cases until the person leaves hospital. The amendment restores the policy intent and ensures PIP claimants are treated in the same way as DLA claimants.

7.5 Regulation 3(2) corrects a paragraph numbering problem within the definition of “young individual”.

7.6 Regulations 3(4) and 4(3) update references to ensure that they are up to date in referring to "national insurance contributions".

7.7 Regulations 3(5) and 4(4) makes amendments to ensure consistency of terminology within in regulations 87(1) of SI 2006/213 and 68(1) of SI 2006/214.

Consolidation

7.8 These regulations will be published in due course in the ‘Law relating to Social Security’ (referred to as “The Blue Books”) which are regularly updated and are available to the public at no cost via the internet at: www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/

8. Consultation outcome

8.1 The Social Security Advisory Committee agreed that the regulations should not be referred to it for formal consultation.

8.2 In accordance with section 176(2)(b) of the Social Security Administration Act 1992, the Department wrote formally to the local authority associations to advise them of the proposed changes. They had no comments on the proposals.

9. Guidance

Guidance will be made available to local authority staff prior to the regulations coming into force. As the amendments restore the original policy intention, no additional information is needed for the general public.

10. Impact

10.1 There is no impact on business or civil society.

10.2 There is little or no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

Monitoring of the changes will be part of the general monitoring of Housing Benefit claims as only a small number of claimants are likely to be affected. The Department will review the impacts of these regulations should any evidence of adverse impacts come to light.

13. Contact

Ursula Brennan at the Department for Work and Pensions Tel: 0207 449 5257 or email: ursula.a.brennan@dwp.gsi.gov.uk can answer any queries regarding the instrument.