

## EXPLANATORY MEMORANDUM (SUPPLEMENTARY) TO

### THE HOUSING BENEFIT (ABOLITION OF THE FAMILY PREMIUM AND DATE OF CLAIM) (AMENDMENT) REGULATIONS 2015

2015 No. 1857

#### 1. Introduction

1.1 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](http://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](http://www.dwp.gov.uk/docs/a8-2901.pdf));
- to abolish the Family Premium for all Housing Benefit entitlements arising on or after the coming into force date specified in this instrument, and for those who cease to have responsibility for any children or young people after that date, or who become responsible for such a person after that date.
- To amend The Housing Benefit Regulations 2006 (SI 2006/213) ([www.dwp.gov.uk/docs/a8-2501.pdf](http://www.dwp.gov.uk/docs/a8-2501.pdf)), to reduce the period for which working age Housing Benefit claims can be backdated.

#### 3. Matters of special interest to Parliament

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

3.1 None.

##### *Other matters of interest to the House of Commons*

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

#### 4. Legislative Context

##### *Family Premium*

4.1 The Family Premium is currently an addition to the Housing Benefit (HB) applicable amount. The applicable amount is used in calculating HB entitlement, principally for claimants who do not have linked entitlement to full eligible HB because they are not in receipt of another income-related benefit. For such claimants, the amount of HB entitlement is calculated by applying a taper (65%) to any income in excess of the applicable amount.

4.2 Under the new policy, the Family Premium will not be included in the HB applicable amount for new HB entitlements on or after 1 May 2016. It will also mean that any

existing claimants who would have had entitlement to the Family Premium on or after 1 May 2016 because they have a first child or become responsible for a child (i.e. under 16) or young person (as defined by the HB regulations) will not have entitlement to it. Additionally, if a current claimant ceases to have responsibility for any children or young people, then they cannot regain access to the Family Premium if they become responsible for such a person in the future.

### ***Limiting Backdating***

- 4.3 Under current rules, working-age HB claimants may have their HB claim treated as made from a date up to 6 months before they made their claim for HB if they can show ‘continuous good cause’ for the delay in making the claim. Universal Credit backdating is limited to one month. In line with UC backdating rules, from 1 April 2016 HB backdating will be limited to one month, whilst retaining the requirement to demonstrate good cause for failing to make the claim.

## **5. Extent and Territorial Application**

- 5.1 This instrument extends to Great Britain.
- 5.2 This instrument applies to Great Britain.
- 5.3 The policy has been shared with Department for Social Development, Northern Ireland but they are not amending their regulations at this time.

## **6. European Convention on Human Rights**

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

## **7. Policy background**

### ***What is being done and why***

#### ***Family Premium***

- 7.1 From 1st May 2016 the Family Premium will no longer be included in the HB applicable amount. Removing the Family Premium helps to simplify the overly-complex HB system and should therefore reduce administration costs. The policy will provide alignment with Universal Credit (which does not have a Family Premium or equivalent) thereby helping the eventual transition process.
- 7.2 To avoid over-complicated transitional provisions, new HB entitlements from 1 May 2016, including those due to the claimant changing address between local authority areas will not include the Family Premium.
- 7.3 Claimants who are entitled to the Premium on 30th April 2016 and move within a local authority’s area do not have to make a new claim following their move, so they are treated as having continuous entitlement to HB. They would retain their entitlement to the Premium long as they remain responsible for a child (or young person) or until their current HB entitlement ends.
- 7.4 The Regulations also make consequential amendments to provisions relating to the additional earnings disregard (currently £17.10 a week) and the disregard of spousal maintenance to remove references to the Family Premium, to ensure that both continue to apply as they do now.

### ***Backdating***

- 7.5 Under current rules, working-age HB claimants may have their HB claim treated as made from a date up to 6 months before they make their claim for HB, but only if they can show ‘continuous good cause’ for the delay in making their claim. Universal Credit backdating is limited to one month.
- 7.6 The Regulations reduce the period in HB to align with UC to ensure equality of treatment for all working age claimants, whilst retaining the requirement to demonstrate good cause for failing to make the claim. This provides continuity of approach for local authority decision makers within the HB backdating provisions, as well as retaining the power to consider each case of its individual merits.
- 7.7 As the measure is to align working age HB with UC, State Pension Age HB regulations will remain unchanged.

### ***Consolidation***

- 7.8 Informal consolidated text of instruments is available to the public free of charge via ‘The Law Relating to Social Security’ (Blue Volumes) on the Department for Work and Pensions website at <http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/> or the National Archive website [legislation.gov.uk](http://legislation.gov.uk). An explanation as to which instruments are maintained on each site is available from <http://www.dwp.gov.uk/docs/lawvolnews.pdf>.

## **8. Consultation outcome**

- 8.1 In accordance with section 172(1) of the [Social Security Administration Act 1992](#), the Department referred the regulations to the Social Security Advisory Committee. The Government is publishing a response to the Committee in an un-numbered Act Paper.

## **9. Guidance**

- 9.1 Guidance will be made available to local authority staff prior to the regulations coming into force via a circular which will also be published in the Housing Benefit for local authority section of [Gov.UK](#).

## **10. Impact**

- 10.1 There is no impact on business or civil society organisations.
- 10.2 The impact on the public sector is negligible. Our analysis of costs shows that we expect to save £55million in 2016/17 by removing that Family Premium and £10million by limiting the backdating period.
- 10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

## **12. Monitoring & review**

- 12.1 Monitoring of the changes will be part of the general monitoring of Housing Benefit claims. The Department will review the impacts of these regulations through the normal course of business.

### **13. Contact**

- 13.1 Darran Nuttall at the Department for Work and Pensions Tel: 01629 773013 or email: [Darran.nuttall@dwp.gsi.gov.uk](mailto:Darran.nuttall@dwp.gsi.gov.uk) can answer any queries regarding the instrument.