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STATUTORY INSTRUMENTS

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**2017 No. 376**

**The Social Security (Restrictions on Amounts for Children and Qualifying Young Persons) Amendment Regulations 2017**

**Housing Benefit – transitional provisions for restrictions on amounts for children and young persons**

9.—(1) This regulation applies where, on 5th April 2017, a person is entitled to housing benefit and the person is, or the person and the person’s partner are between them, responsible for more than two individuals who are either children or young persons and who are members of the same household (each such individual is referred to as a “protected individual”).

(2) Where this regulation applies, the amendments made by regulations 7 and 8 do not apply to the person entitled to housing benefit referred to in paragraph (1) until—

- (a) the person makes a new claim for housing benefit; or
- (b) the person or the person’s partner (if any) becomes responsible for a new individual,

whichever is the first to occur.

(3) Paragraphs (4) to (8) apply where—

- (a) the amendments made by regulations 7 and 8 apply by virtue of paragraph (2)(b);
- (b) the child tax credit provisions do not apply; and
- (c) the person has not made a new claim for housing benefit.

(4) Notwithstanding the default provisions, a child amount shall be included in the applicable amount in relation to any protected individual, in relation to any time when the person or the person’s partner (if any) is responsible for the individual and the individual is a member of the same household.

(5) Paragraph (6) applies where—

- (a) the person or the person’s partner (if any) is responsible for one or more protected individuals who are members of the same household; and
- (b) either of them is responsible for one or more new individuals who are members of the same household.

(6) Where this paragraph applies, any protected individual for whom the person or the person’s partner is responsible is to be counted for the purpose of deciding whether, under the default provisions, an additional child amount is to be included in the applicable amount with respect to the new individual or individuals referred to in paragraph (5)(b).

(7) Paragraph (8) applies where—

- (a) the number of protected individuals for whom either the person or the person’s partner (if any) is responsible, and who are members of the same household, is one;
- (b) the number of new individuals for whom either the person or the person’s partner is responsible, and who are members of the same household, is two or more; and
- (c) a different child amount would apply to different individuals.

(8) Where this paragraph applies, the child amounts to be included in the applicable amount shall be—

- (a) the child amount in relation to the protected individual; and
- (b) a child amount in relation to such one of the new individuals as will result in the greatest possible total amount.

(9) Under paragraph (3), for the purposes of determining whether the child tax credit provisions apply, by virtue of regulation 22(3) or 23(3) of the 2006 Regulations or regulation 22(5B) of the 2006 (SPC) Regulations<sup>(1)</sup>, where the person or the person’s partner is responsible for one or more protected individuals, the total amount that would be included in the applicable amount under the default provisions shall be taken to be the total that would be included under paragraphs (4), (6) and (8).

(10) For the purposes of this regulation—

- (a) “the 2006 Regulations” means the Housing Benefit Regulations 2006 and “the 2006 (SPC) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006;
- (b) “applicable amount” has the same meaning as in section 135 of the Social Security Contributions and Benefits Act 1992<sup>(2)</sup>;
- (c) “child”, “partner” and “young person” have the same meanings as in the 2006 Regulations;
- (d) “child amount” means the amount determined under whichever is relevant of paragraph 2 of Schedule 3 to the 2006 Regulations or paragraph 2 of Schedule 3 to the 2006 (SPC) Regulations;
- (e) “child tax credit provisions” means whichever is relevant of regulation 22(1)(b) or 23(1)(c) of the 2006 Regulations or regulation 22(1)(b) of the 2006 (SPC) Regulations, as substituted by regulation 22(4) or 23(4) of the 2006 Regulations or regulation 22(5C) of the 2006 (SPC) Regulations respectively;
- (f) “default provisions” means whichever is relevant of regulation 22(1)(b) or 23(1)(c) of the 2006 Regulations or regulation 22(1)(b) of the 2006 (SPC) Regulations, as they apply apart from regulation 22(4) or 23(4) of the 2006 Regulations or regulation 22(5C) of the 2006 (SPC) Regulations respectively;
- (g) “new individual” means a child or young person who is not a protected individual;
- (h) any reference to an individual being part of the same household means being part of the same household with the person who is entitled to housing benefit and the person’s partner (if any);
- (i) a person is to be treated as responsible for a child or young person in the circumstances set out in regulation 20 of the 2006 Regulations.

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(1) Regulations 22(3) and 23(3) of the 2006 Regulations are inserted by regulation 7 of these Regulations. Regulation 22(5B) of the 2006 (SPC) Regulations is inserted by regulation 8 of these Regulations.

(2) Section 135 was amended by the Health and Social Care Act 2001, section 67(2) and Schedule 6, Part 3 and by the Tax Credits Act 2002, section 60 and Schedule 6.

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security (Restrictions on Amounts for Children and Qualifying Young Persons) Amendment Regulations 2017, Section 9.