

2011 No. 1736

SOCIAL SECURITY

The Housing Benefit (Amendment) Regulations 2011

Made - - - - *14th July 2011*

Laid before Parliament *19th July 2011*

Coming into force - - *1st January 2012*

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 (5), 137(1) and 175(1), (3), (4) and (5) of the Social Security Contributions and Benefits Act 1992(a).

In accordance with section 172(1)(b) of the Social Security Administration Act 1992, the Secretary of State has referred the proposals for these Regulations to the Social Security Advisory Committee.

In accordance with section 176(1)(c) of that Act, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

Citation and commencement

1. These Regulations may be cited as the Housing Benefit (Amendment) Regulations 2011 and come into force on 1st January 2012.

Amendment of the Housing Benefit Regulations 2006

2.—(1) The Housing Benefit Regulations 2006(d) are amended as follows.

(2) In the definition of “young individual” in regulation 2(1)(e) (interpretation)—

(a) for “25 years”, substitute “35 years”;

(b) after paragraph (g), insert—

“or

(h) who has attained the age of 25 years and to whom paragraph (1A), (1C) or both apply;”.

(3) After regulation 2(1) insert—

(a) 1992 c.4. Section 130A was inserted by section 30 of the Welfare Reform Act 2007 (c.5). Section 137(1) is an interpretation provision and is cited for the meaning of the word “prescribed”. Section 175(5) was amended by paragraph 36 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c.18).

(b) 1992 c.5.

(c) Section 176(1) was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c.14), paragraph 3(4) of Schedule 13 to the Housing Act 1996 (c.52) and section 69(6) of the Child Support, Pensions and Social Security Act 2000 (c.19).

(d) S.I. 2006/213.

(e) Relevant amending instruments are S.I. 2007/2868 and 2010/2835.

“(1A) This paragraph applies to a claimant (“C”) if—

- (a) C has, for a total of at least 3 months (whether or not continuously), occupied as his home one or more hostels for homeless people; and
- (b) whilst occupying such a hostel, C has been offered and has accepted support services with a view to assisting him to be rehabilitated or resettled within the community.

(1B) For the purposes of determining whether C meets the condition in paragraph (1A)(a), “hostel for homeless people” means a hostel, as defined in paragraph (1), the main purpose of which is to provide accommodation together with care, support or supervision for homeless people with a view to assisting such persons to be rehabilitated or resettled within the community.

(1C) This paragraph applies—

- (a) in England and Wales, to a claimant (“C”) if C is the subject of active multi-agency management pursuant to arrangements established by a responsible authority under section 325(2) of the Criminal Justice Act 2003 (arrangements for assessing etc. risks posed by certain offenders)(a); or
- (b) in Scotland, to a claimant (“C”) if C is—
 - (i) the subject of local inter-agency risk management or management by the multi-agency public protection panel pursuant to arrangements established by the responsible authorities under section 10(1) of the Management of Offenders etc. (Scotland) Act 2005 (arrangements for assessing and managing risks posed by certain offenders)(b); or
 - (ii) a person to whom section 10(1) of that Act does not apply by reason only of the fact that section 10(1)(b) or (d) has not been brought fully into force and C is considered by the relevant authority to be a person who may cause serious harm to the public at large; or
 - (iii) a person to whom section 10(1) of that Act does not apply by reason only of the fact that section 10(1)(e) has not been brought fully into force and who has been convicted of an offence, if by reason of that conviction, C is considered by the relevant authority to be a person who may cause serious harm to the public at large.”.

(4) In regulation 12M(4)(c) (transitional protection – reduction in LHA) for “Where”, substitute “Subject to paragraph (4A), where”.

(5) After regulation 12M(4) insert—

“(4A) Where on the date when the eligible rent ceases to apply because of paragraph (3)(a), the claimant is a young individual who has attained the age of 25 years—

- (a) the eligible rent will be the maximum rent (LHA) which would apply if the relevant authority were to determine one by reference to that date, but
- (b) the LHA date for the purposes of regulation 13C will remain the date by reference to which the local housing allowance used in the determination referred to in paragraph (1)(b) was identified.”.

(a) 2003 c. 44. Section 10(1) was amended by S.I. 2008/ 912. See “MAPPA Guidance (2009) Version 3.0” published in April 2009 by the Secretary of State.

(b) 2005 asp 14. See Justice and Communities Circular JD/3/2008 and NHS CEL (2007) 8, “Sections 10 and 11 of the Management of Offenders etc. (Scotland) Act 2005, Implementation of the Multi Agency Public Protection Arrangements (MAPPA) in Scotland”, Version 4, published by the Scottish Ministers in April 2008, ISBN 978 0 7559 1673 3.

(c) Regulation 12M was inserted by S.I. 2010/2835.

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

3. In regulation 2(1) (interpretation) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(a) omit the definition of “young individual”.

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

14th July 2011

Freud
Parliamentary Under-Secretary of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2(2) of these Regulations amends the Housing Benefit Regulations 2006 (S.I. 2006/213) (“the Housing Benefit Regulations”) so as to extend the definition of “young individual” to include single claimants who are under the age of 35, rather than 25 as at present.

Where a person falls within the definition of “young individual” the effect is that their housing benefit is limited to the rate applicable to a room in shared accommodation, rather than the rate applicable to one-bedroom self-contained accommodation, unless they benefit from an exemption.

Regulation 2(2)(b) and (3) provide for additional exemptions from the extension of the age range for young individuals. These exemptions apply to—

—certain homeless people,

—offenders in respect of whom multi-agency management arrangements are in place under the Criminal Justice Act 2003 or, in Scotland, under the Management of Offenders etc. (Scotland) Act 2005 (“the 2005 Act”),

—certain offenders in Scotland who are not covered by the duty on responsible authorities in section 10(1) of the 2005 Act only because certain of its provisions are not yet fully in force but whom the local authority considers may cause serious harm to the public at large.

Regulation 2(4) and (5) make amendments to regulation 12M of the Housing Benefit Regulations. Regulation 12M was inserted by the Housing Benefit (Amendment) Regulations 2010 (S.I. 2010/2835) and provides for a period of up to 9 months during which certain existing claimants in the private rented sector are protected from reductions which that instrument and the Rent Officers (Housing Benefit Functions) Amendment Order 2010 (S.I. 2010/2836) make to housing benefit in cases covered by the local housing allowance.

Regulation 12M provides that, at the end of the 9 month period, most claimants’ housing benefit will revert to that which would have been set but for this transitional protection. However regulation 2(3) and (4) amend regulation 12M to provide that, for existing claimants who become “young individuals” as a result of this instrument (i.e. single claimants who have reached 25 but are under 35 years old) their housing benefit will change to the rate applicable, at the end of the 9 month period, to a room in shared accommodation. However this will not change the date at which their housing benefit subsequently falls to be reassessed.

Regulation 3 omits a redundant definition in regulation 2(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214).

The report of the Social Security Advisory Committee dated 6th July 2011 on the Secretary of State’s proposal to make these Regulations, together with a statement showing the extent to which

(a) S.I. 2006/214.

these Regulations give effect to the recommendations of the Committee and, in so far as they do not give effect to them, the reasons why not, are contained in an Act Paper published by The Stationery Office Ltd at www.tso.co.uk .

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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