

2013 No. 2828

SOCIAL SECURITY

**The Housing Benefit and Universal Credit
(Size Criteria) (Miscellaneous Amendments)
Regulations 2013**

Made - - - - - *31st October 2013*
Laid before Parliament *7th November 2013*
Coming into force - *4th December 2013*

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) to (5), 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a) and sections 11(4), 40 and 42(2) of the Welfare Reform Act 2012(b).

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

In accordance with section 176(1) of the Social Security Administration Act 1992(d), 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 and Universal Credit (Size Criteria) (Miscellaneous Amendments) Regulations 2013 and come into force on 4th December 2013.

[Regulation 2 makes amendments to regulations 2, B13, 13D, 14 and Paragraph 2 of Schedule 2 to S.I. 2006/213.]

[Regulation 3 makes amendments to regulations 2, 13D, 14 and Paragraph 2 of Schedule 2 to S.I. 2006/214.]

[Regulation 4 makes various amendments to Schedule 4 of S.I. 2013/376.]

(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 175(1) and (4) were amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 137(1) is cited for the meaning of “prescribed”.

(b) 2012 c. 5. Section 40 is cited for the meaning of “prescribed”.

(c) 1992. c. 5.

(d) 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.

**HOUSING BENEFIT AND UNIVERSAL CREDIT (SIZE CRITERIA)
(MISCELLANEOUS AMENDMENTS) REGULATIONS 2013**

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

31st October 2013

Freud
Parliamentary Under Secretary of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit Regulations 2006 (“the Housing Benefit Regulations”), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 and the Universal Credit Regulations 2013 (“the Universal Credit Regulations”).

Regulation 2(2) inserts a definition of “child who cannot share a bedroom” into regulation 2(1) of the Housing Benefit Regulations. This applies to a child who:

- is entitled to the care component of disability living allowance at the highest or middle rate, and
- by reason of their disability is not reasonably able to share a bedroom with another child

It also amends the definition of “young individual” so that a person who is a qualifying parent or carer (also defined in regulation 2 of the Housing Benefit Regulations) is not a young individual and so will not be subject to the shared accommodation rate when calculating the amount of rent eligible to be met by housing benefit for claimants in the private sector.

Regulation 2(3) amends regulation B13 of the Housing Benefit Regulations, which makes provision for the determination of the amount of rent eligible to be met by way of housing benefit for claimants renting in the social sector. The amendments do two things. The amendment in regulation 2(3)(a) ensures that where one of the occupiers of the dwelling is a child who cannot share a bedroom, a bedroom is allowed under the size criteria applicable in the claimant’s case.

The amendments in regulation 2(3)(b) to (d) ensure that when determining whether a dwelling is under-occupied for the purposes of applying a reduction, a room is included where a joint tenant (or a joint tenant’s partner) requires overnight care or is a qualifying parent or carer.

Regulation 2(4) makes a similar amendment in respect of a child who cannot share a bedroom to regulation 13D of the Housing Benefit Regulations, which makes provision for the determination of the amount of rent eligible to be met by way of housing benefit for claimants renting in the private sector to whom the local housing allowance applies. However under regulation 13D there is a maximum of four bedrooms and the room must be one that is additional to those that the claimant would be entitled to if the child were able to share a bedroom.

Regulation 2(5) amends regulation 14 of the Housing Benefit Regulations, which applies to private sector claimants not covered by the local housing allowance and to some social sector claimants where the local authority considers the rent to be unreasonably high. Taken in conjunction with the amendment to Schedule 2 made by regulation 2(6), this amendment ensures that a referral to a rent officer will be made if a child becomes, or ceases to be, a child who cannot share a bedroom.

Regulation 3 makes equivalent amendments to regulations 2, 13D and 14 of and Schedule 2 to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 in respect of a child who cannot share a bedroom. (These Regulations have no equivalent to regulation B13 of the Housing Benefit Regulations and they do not apply to young individuals).

Regulation 4(2) amends paragraph 9 of Schedule 4 to the Universal Credit Regulations, which specifies who should be treated as part of a renter's extended benefit unit for the purposes of the housing costs calculation. The purpose of the amendments is to ensure that only children for whom the renter is responsible (within the meaning of regulation 4 of the Universal Credit Regulations) are treated as part of the extended benefit unit and allocated a room under the size criteria. They also make clear that only non-dependants who normally live with the renter can be allocated a room under the size criteria.

Regulation 4(3) substitutes a revised version of paragraph 12 of Schedule 4 to the Universal Credit Regulations. The revised wording allows for an additional room to be allocated for a child who is a member of the renter's extended benefit unit and would usually have to share a room, if:

- they are entitled to the care component of disability living allowance at the highest or middle rate, and
- by reason of their disability, they are not reasonably able to share a bedroom with another child.

The Report of the Social Security Advisory Committee dated 29th October 2013 on the Secretary of State's proposal to make these Regulations, [together with a statement showing the extent to which 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.

