

**2010 No. 2835****SOCIAL SECURITY****The Housing Benefit (Amendment)  
Regulations 2010***Made - - - - - 24th November 2010**Laid before Parliament 30th November 2010**Coming into force - 1st April 2011*

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), (4) and (5) of the Social Security Contributions and Benefits Act 1992(a) and sections 5(2A) to (2C), 189(1) and (4) and 191 of the Social Security Administration Act 1992(b).

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

In accordance with section 176(1) 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 2010 and come into force on 1st April 2011.

[Regulation 2 amends regulations 2, 12, 13D, 14, 96, 114A, Schedule 2 and 10 of S.I.2006/213.]

[Regulation 3 amends regulations 2, 12, 13D, 14, 77, 95A, Schedule 2 and 9 of S.I.2006/214.]

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

24th November 2010

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

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(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”.

(b) 1992 c. 5. Section 5(2A) to (2C) were inserted by s. 35(2) of the Welfare Reform Act 2007. Section 189(1) and (4) were amended by the Social Security Act 1998 (c. 14), Schedule 7, paragraph 109. Section 191, which was amended by Schedule 5, paragraph 10 of the Welfare Reform Act 2007, is an interpretation provision and is cited for the meaning of the word “prescribe”.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Regulation 2 of these Regulations amends the Housing Benefit Regulations 2006. Regulation 3 makes equivalent amendments to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

Paragraph (6) of regulation 2 amends regulation 13D which provides for the calculation of a maximum rent in cases where housing benefit is calculated by reference to a local housing allowance (LHA). The amendment does three things.

First, it reduces the maximum size dwelling for which the LHA is calculated from five to four bedrooms, and removes provisions that allowed a local authority to request a local housing allowance determination for dwellings larger than the maximum.

Secondly, it requires account to be taken of an additional bedroom for a non-resident carer in any case where the claimant or claimant's partner is a person who requires overnight care. Paragraph (2) of regulation 2 inserts a definition of "person who requires overnight care", and also in the Housing Benefit Regulations 2006 adjusts the definition of "young individual" to exclude such a person. Paragraphs (7), (9) and (10) make consequential amendments.

Finally, it removes the provision that allows claimants to receive up to £15 more than their actual rent. Paragraph (11) makes an equivalent amendment to regulation 12I, which is a transitional provision applying to some claimants in former pathfinder authorities.

Paragraph (5) makes provision for transitional protection for up to 9 months where the local authority determines a new maximum rent (LHA) because it is the anniversary of the last determination or there is a new applicable LHA because the claimant has become entitled to a larger category of dwelling.

Paragraph (8) extends the circumstances in which payment of Housing Benefit may be made directly to the landlord in cases where a maximum rent (LHA) has been determined.

The Report of the Social Security Advisory Committee dated 13th October 2010 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.

An assessment of the impact of these Regulations has been made. Copies of this impact assessment are available in the libraries of both Houses of Parliament, and may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, 6B Caxton House, Tothill Street, London SW1H 9NA, or from the DWP website: <http://www.dwp.gov.uk/resourcecentre/ria.asp>.