

## 2007 No. 2870

### SOCIAL SECURITY

#### The Housing Benefit (Local Housing Allowance, Miscellaneous and Consequential) Amendment Regulations 2007

*Made - - - - 2nd October 2007*  
*Laid before Parliament 8th October 2007*  
*Coming into force in accordance with regulation 1*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred on him by sections 130A(2) and (3), 137(1)(a) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(b) and paragraph 4(4A) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(c).

This instrument contains only regulations made by virtue of, or consequential upon, section 30 of the Welfare Reform Act 2007(d) and is made before the end of the period of six months beginning with the coming into force of that section.

In accordance with section 176(1) of the Social Security Administration Act 1992, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Local Housing Allowance, Miscellaneous and Consequential) Amendment Regulations 2007.

(2) This regulation and, subject to paragraph (4) (which relates to non-local housing allowance cases), regulations 2 to 6, shall come into force on 7th April 2008.

(3) This paragraph applies to a case where no reference was made to a maximum rent (standard local rate) in determining the amount of the eligible rent which applied immediately before 7th April 2008 and in this paragraph—

"eligible rent" shall be construed in accordance with—

- (i) regulations 12 or 12A of the Housing Benefit Regulations 2006(e) or the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(f) as in force immediately before 7th April 2008; or
- (ii) in a case to which paragraph 4 of Schedule 3 to the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006(g)

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(a) Section 137(1) is an interpretation provision and is cited for the meaning of the word "prescribed".

(b) 1992 c. 4. Sections 130A was inserted by section 30 of the Welfare Reform Act 2007 (c. 5).

(c) 2000 c. 19. Paragraph 4(4A) of Schedule 7 was inserted by section 30 of the Welfare Reform Act 2007 (c. 5).

(d) 2007 c. 5.

(e) 2006/213. Relevant amending instruments are S.I. 2007/1356 and 2868.

(f) 2006/214. Relevant amending instruments are S.I. 2007/1356 and 2868.

(g) 2006/217.

applies, regulations 12 and 13 of the Housing Benefit Regulations 2006 or the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 as set out in paragraph 5 of that Schedule as in force immediately before 7th April 2007.

"maximum rent (standard local rate)" means a maximum rent (standard local rate) determined in accordance with regulation 13A of the Housing Benefit Regulations 2006 or the Housing Benefit (persons who have attained the qualifying age for state pension credit) Regulations 2006 as in force immediately before 7th April 2008.

(4) In a case to which paragraph (3) applies, these Regulations shall come into force on the day when, on or after 7th April 2008, the first of the following sub-paragraphs applies—

- (a) a relevant authority is required to apply to a rent officer by virtue of regulation 14 of the Housing Benefit Regulations or the Housing Benefit (State Pension Credit) Regulations;
- (b) sub-paragraph (a) would apply but for the case falling within regulation 14(4)(a) of, or regulations 14(4)(b) of and paragraph 2 of Schedule 2 to, the Housing Benefit Regulations or the Housing Benefit (State Pension Credit) Regulations (no application to rent officer required as an existing rent officer determination may be used);
- (c) a relevant authority is required to determine an eligible rent in accordance with regulation 12(3)(b) of the Housing Benefit Regulations or the Housing Benefit (State Pension Credit) Regulations; or
- (d) a relevant authority is required to determine an eligible rent in accordance with regulation 12(3) of the Housing Benefit Regulations 2006 or regulation 12(3) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 as set out in paragraph 5 of Schedule 3 to the Consequential Provisions Regulations,

and in this paragraph "relevant authority" means an authority administering housing benefit.

(5) Where paragraph (4) does not apply before 6th April 2009, these Regulations shall come into force on that date.

(6) In paragraph (4) of this regulation—

"the Housing Benefit Regulations" means the Housing Benefit Regulations 2006 as in force immediately before the coming into force of regulations 4 to 19 of the Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007 in that case;

"the Housing Benefit (State Pension Credit) Regulations" means the Housing Benefit (persons who have attained the qualifying age for state pension credit) Regulations 2006 as in force immediately before the coming into force of regulations 4 to 19 of the Housing Benefit (State Pension Credit) (Local Housing Allowance and Information Sharing) Amendment Regulations 2007 in that case;

"the Consequential Provisions Regulations" means the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 as in force immediately before the coming into force of regulations 2 to 6 of these regulations in that case.

[Regulation 2 amends Schedule 9 of S.I. 1987/1968.]

[Regulation 3 amends legislation not relevant to these volumes.]

[Regulation 4 amends regulation 7 of S.I. 2001/1002.]

[Regulation 5 amends regulation 4(a) of S.I. 2001/1167.]

[Regulation 6 amends schedules 3 and 4 of S.I. 2006/217.]

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

2nd October 2007

*James Plaskitt*  
Parliamentary Under Secretary of State,  
Department for Work and Pensions

### **EXPLANATORY NOTE**

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

These Regulations, together with the Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007 and the Housing Benefit (State Pension Credit) (Local Housing Allowance and Information Sharing) Amendment Regulations 2007 (referred to collectively in this note as the LHA regulations) and the Rent Officers (Housing Benefit Functions) Order 2007 (S.I. 2007/2871), provide for the national rollout of a modified version of the local housing allowance arrangements. The LHA regulations use new powers in the Social Security Contributions and Benefits Act 1992 following commencement of section 30 of The Welfare Reform Act 2007. They also remake some regulations (with amendments in some cases) as the existing regulations will cease to have effect (subject to savings) when the current powers are repealed. These Regulations also make provisions relating to decision making in relation to housing benefit.

The local housing allowance arrangements are a way of determining housing costs eligible to be met by housing benefit for certain cases (local housing allowance cases) using local housing allowances determined by rent officers. The local housing allowance arrangements have applied to the areas of 18 local authorities (former pathfinder authorities).

Regulation 1 provides for regulations 2 to 6 to come into force on 7th April 2008 except in the case of non-local housing allowance cases where the provisions will come into force on the first of certain specified events (see regulation 1(4)).

Regulation 2 amends the Social Security (Claims and Payments) Regulations 1987 to align cross-references to the provisions as amended by the LHA Regulations.

Regulation 3 amends the Housing Renewal Grants Regulations 1996 to substitute a new definition of "rent" into provisions in those regulations.

Regulation 4 amends the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations. Regulation 4(1) inserts or omits cross-references as appropriate. Regulation 4(2) inserts a new regulation 7A. The new regulation requires the appropriate relevant authority to make a decision when it is required to determine a maximum rent (LHA), or where it is required to make referral to a rent officer as 52 weeks have elapsed since the previous referral. This is to ensure that a claimant's eligible rent is updated annually using a new local housing allowance rate or a rent officer determination. The regulation also requires local authorities to make a decision where a change of circumstances which does not need to be notified by the claimant occurs.

Regulation 5 amends the Discretionary Financial Assistance Regulations 2001.

Regulation 6 re-makes part of Schedule 3 (transitional and savings provisions) to the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 with minor amendments. Parts of Schedule 4 to those Regulations are also remade.

A full regulatory impact assessment has not been published for this instrument as it has no direct impact on the costs of businesses, charities and the voluntary sector.