STATUTORY INSTRUMENTS

2017 No. 213

SOCIAL SECURITY

The Housing Benefit and Universal Credit (Size Criteria) (Miscellaneous Amendments) Regulations 2017

Made - - - -	*27th February 2017*
Laid before Parliament	*2nd March 2017*
Coming into force - -	*1st April 2017*

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(**1**), section 122(1) and (6)(b) of the Housing Act 1996(**2**) and sections 11(4) and 42(2) and (3) of the Welfare Reform Act 2012(**3**).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(**4**), the Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it.

In respect of provisions relating to housing benefit, in accordance with section 176(1) of the Social Security Administration Act 1992(**5**) the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

Citation, commencement and transitional provision

1.—(1) These Regulations may be cited as the Housing Benefit and Universal Credit (Size Criteria) (Miscellaneous Amendments) Regulations 2017 and come into force on 1st April 2017.

(2) Where an amendment made by regulation 6 applies in respect of an existing award of universal credit, that amendment has effect for the purposes of that award—

(a) on 1st April 2017, if there is an assessment period for the award that begins on that day; or

(**1**) 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 137(1) is cited for the meaning of 'prescribed'. Section 175(1) and (4) were amended by paragraphs 29(2) and (4) of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).
(**2**) 1996 c.52. Section 122(1) was amended by paragraph 36 of Schedule 2, and paragraph 13 of Schedule 4, to the Welfare Reform Act 2012 (c. 5).
(**3**) 2012 c. 5.
(**4**) 1992 c. 5.
(**5**) 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).

(b) if sub-paragraph (a) does not apply, on the first day of the next assessment period for the award beginning after that day.

(3) In this regulation—

"assessment period" has the meaning given by section 7(2) of the Welfare Reform Act 2012;

"existing award of universal credit" means an award of universal credit that exists on 1st April 2017.

Amendments to the Rent Officers (Housing Benefit Functions) Order 1997

2.—(1) Schedule 2 (size criteria) to the Rent Officers (Housing Benefit Functions) Order 1997(**6**) is amended as follows.

(2) In paragraph 1—

(a) before sub-paragraph (a) insert—

"(za) a member of a couple who cannot share a bedroom;

(zb) a member of a couple who can share a bedroom;";

(b) in sub-paragraph (a) omit "(within the meaning of Part VII of the Social Security Contributions and Benefits Act 1992)";

(c) in the full-out words at the end—

(i) after "a child who cannot share a bedroom" insert "or a member of a couple who cannot share a bedroom";

(ii) after "the child" insert "or the member of the couple".

(3) In paragraph 1A, for sub-paragraph (a) substitute—

"(a) one or more of the following persons is stated as being a person who requires overnight care—

(i) the tenant;

(ii) the tenant's partner;

(iii) a person (other than the tenant or the tenant's partner) who occupies the dwelling as their home;

(iv) a child or young person in respect of whom the tenant or the tenant's partner is a qualifying parent or carer; or".

(4) In paragraph 3—

(a) after "child who cannot share a bedroom" insert ", "couple", "member of a couple who cannot share a bedroom";

(b) at the end insert "and reference to a member of a couple who can share a bedroom is to be construed in accordance with regulation 2(6) of those Regulations".

Amendments to the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997

3.—(1) Schedule 2 (size criteria) to the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997(**7**) is amended as follows.

(2) In paragraph 1—

(a) before sub-paragraph (a) insert—

"(za) a member of a couple who cannot share a bedroom;

(**6**) S.I. 1997/1984; relevant amending instruments are S.I. 2005/2877, 2010/2836, 2013/666 and 2013/2827.
(**7**) S.I. 1997/1995; relevant amending instruments are S.I. 2005/2877, 2010/2836, 2013/666 and 2013/2827.

(zb) a member of a couple who can share a bedroom;";

(b) in sub-paragraph (a) omit "(within the meaning of Part VII of the Social Security Contributions and Benefits Act 1992)";

(c) in the full-out words at the end—

(i) after "a child who cannot share a bedroom" insert "or a member of a couple who cannot share a bedroom";

(ii) after "the child" insert "or the member of the couple".

(3) In paragraph 1A, for sub-paragraph (a) substitute—

"(a) one or more of the following persons is stated as being a person who requires overnight care—

(i) the tenant;

(ii) the tenant's partner;

(iii) a person (other than the tenant or the tenant's partner) who occupies the dwelling as their home;

(iv) a child or young person in respect of whom the tenant or the tenant's partner is a qualifying parent or carer; or".

(4) In paragraph 3—

(a) after "child who cannot share a bedroom" insert ", "couple", "member of a couple who cannot share a bedroom";

(b) at the end insert "and reference to a member of a couple who can share a bedroom is to be construed in accordance with regulation 2(6) of those Regulations".

Amendments to the Housing Benefit Regulations 2006

4.—(1) The Housing Benefit Regulations 2006(**8**) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the definition of "maximum rent (LHA)" insert—

""member of a couple who cannot share a bedroom" means a member of a couple —

(a) who is in receipt of—

(i) attendance allowance at the higher rate in accordance with section 65(3) of the Act;

(ii) the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act;

(iii) the daily living component of personal independence payment in accordance with section 78 of the 2012 Act; or

(iv) armed forces independence payment; and

(b) whom the relevant authority is satisfied is, by virtue of his or her disability, not reasonably able to share a bedroom with the other member of the couple;";

(b) in the definition of "person who requires overnight care" in paragraph (a)(iii) after "provided" insert "or, where P is a child, the claimant has provided";

(c) after paragraph (5) insert—

(**8**) S.I. 2006/213; relevant amending instruments are S.I. 2007/2868, 2010/2835, 2012/3040, 2013/591, 2013/665 and 2013/2828.

"(6) For the purpose of these Regulations, reference to a member of a couple who can share a bedroom is to a member of a couple where the other member of the couple is a member of a couple who cannot share a bedroom.".

(3) In regulation B13 (determination of a maximum rent (social sector))—

(a) in paragraph (5)—

(i) before sub-paragraph (a) insert—

"(za) a member of a couple who cannot share a bedroom;

(zb) a member of a couple who can share a bedroom;";

(ii) in sub-paragraph (a) omit "(within the meaning of Part 7 of the Act)";

(b) in paragraph (6), for sub-paragraph (a) substitute—

"(a) one or more relevant persons in paragraph (9)(a), (b) or (e) is a person who requires overnight care;

(ab) one or more relevant persons in paragraph (9)(c) or (d) is a person who requires overnight care; or";

(c) in paragraph (7), in sub-paragraph (b), for "a sub-paragraph of paragraph (6)" substitute "paragraph (6)(b)";

(d) in paragraph (9), after sub-paragraph (d) insert—

"(e) for the purposes of paragraph (6)(a)—

(i) a person (other than the claimant, the claimant's partner, P or P's partner) who occupies the claimant's dwelling as their home;

(ii) a child or young person in respect of whom a relevant person under sub-paragraphs (a) to (e)(i) is a qualifying parent or carer.".

(4) In regulation 13D (determination of a maximum rent (LHA))—

(a) in paragraph (3)—

(i) before sub-paragraph (a) insert—

"(za) a member of a couple who cannot share a bedroom;

(zb) a member of a couple who can share a bedroom;";

(ii) in sub-paragraph (a) omit "(within the meaning of Part 7 of the Act)";

(iii) in the full-out words at the end—

(aa) after "a child who cannot share a bedroom" insert "or a member of a couple who cannot share a bedroom";

(bb) after "the child" insert "or the member of the couple".

(b) in paragraph (3A), for sub-paragraph (a) substitute—

"(a) one or more of the following persons is a person who requires overnight care—

(i) the claimant;

(ii) the claimant's partner;

(iii) a person (other than the claimant or the claimant's partner) who occupies the claimant's dwelling as their home;

(iv) a child or young person in respect of whom the claimant or the claimant's partner is a qualifying parent or carer; or".