STATUTORY INSTRUMENTS

2016 No. 909

SOCIAL SECURITY

The Benefit Cap (Housing Benefit and Universal Credit) (Amendment) Regulations 2016

Made - - - -	*12th September 2016*
Laid before Parliament	*15th September 2016*
Coming into force - -	*7th November 2016*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 96(1), (4)(a), (c) and (g), (5), (5B) and (10) and 97(1) of the Welfare Reform Act 2012(**1**) and section 34 of the Welfare Reform and Work Act 2016(**2**).

The Social Security Advisory Committee has agreed that proposals in respect of regulations 2(2) and (4) and 3(3) and (6), and regulations 1, 2(1) and 3(1) insofar as they relate to the foregoing provisions, should not be referred to it(**3**).

The other provisions in this instrument have not been referred to the Social Security Advisory Committee because they are made before the end of the period of 6 months beginning with the coming into force of section 96(5) and (5B) of the Welfare Reform Act 2012(**4**) and section 34 of the Welfare Reform and Work Act 2016.

In respect of regulations 2 and 4, and regulation 1 insofar as it relates to those regulations, 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 effect

1.—(1) These Regulations may be cited as the Benefit Cap (Housing Benefit and Universal Credit) (Amendment) Regulations 2016 and come into force on 7th November 2016.

(**1**) 2012 c.5. Section 96(5) was substituted and section 96(5B) was inserted by section 8(2) of the Welfare Reform and Work Act 2016 (c.7). Section 97(1) was amended by section 9 of the Welfare Reform and Work Act 2016. Subsection (10) is cited for the meaning of "prescribed" and "regulations".

(**2**) 2016 c.7.

(**3**) *See* section 173(1)(b) of the Social Security Administration Act 1992 (c.5).

(**4**) *See* section 173(5) of the Social Security Administration Act 1992. Section 96(5) was substituted and 96(5B) inserted by section 8(2) of the Welfare Reform and Work Act 2016. These regulations are made within six months of the coming into force of section 8(2).

(**5**) 1992 c.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).

(2) Where the amendments made by regulation 3 or 5 apply in respect of an existing award of universal credit, they have effect for the purposes of that award—

(a) on 7th November 2016 if there is an assessment period for that award that begins on that day; or

(b) if sub-paragraph (a) does not apply, on the first day of the next assessment period for the award beginning after 7th November 2016.

(3) For the purposes of this regulation, "existing award of universal credit" means an award of universal credit that exists on 7th November 2016.

Amendments to the Housing Benefit Regulations 2006

2.—(1) The Housing Benefit Regulations 2006(**6**) are amended as follows.

(2) For regulation 75B (determination of whether a benefit cap applies) substitute—

"**Determinations**

75B.—(1) A relevant authority may make a determination as to whether the benefit cap applies or whether to change the amount of any reduction made in accordance with regulation 75D (reduction of housing benefit) but a relevant authority is not required to do so unless paragraph (2) applies.

(2) This paragraph applies where a relevant authority receives notification from the Secretary of State that—

(a) the benefit cap may apply;

(b) there has been a change in the amount of a welfare benefit to which a claimant is entitled; or

(c) there has been a change to the relevant amount which may affect the amount of housing benefit to which a claimant is entitled.".

(3) After regulation 75C (manner of calculating the amount of welfare benefits) insert—

"**Determination of the relevant amount**

75CA.—(1) The relevant amount is determined by dividing the applicable annual limit by 52 and rounding that amount by disregarding any amount of less than half a penny and treating any amount of half a penny or more as a whole penny.

(2) The applicable annual limit is—

(a) £15,410 in the case of single claimants resident in Greater London;

(b) £23,000 in the case of all other claimants resident in Greater London;

(c) £13,400 in the case of single claimants not resident in Greater London;

(d) £20,000 in the case of all other claimants not resident in Greater London.

(3) For the purposes of section 96 of the 2012 Act (benefit cap) and this regulation a claimant is resident in Greater London if—

(a) the dwelling that the claimant normally occupies as the claimant's home is in Greater London; or

(b) where the claimant is treated as occupying more than one dwelling as the claimant's home pursuant to regulation 7(6) (circumstances in which a person is or is not to be

(**6**) S.I. 2006/213. Regulations 75B, 75F and 75G were inserted by S.I. 2012/2994. Regulation 75F was amended by S.I. 2013/388, S.I. 2013/546 and S.I. 2013/591.

treated as occupying a dwelling as his home), one of those dwellings is in Greater London.".

(4) In regulation 75F (exception to the benefit cap: receipt of specified benefit), after paragraph (1)(g) insert—

"(h) the claimant, the claimant's partner, or a young person for whom the claimant or the claimant's partner is responsible, is entitled to a carer's allowance under section 70 of the Act;

(i) the claimant, the claimant's partner or a young person for whom the claimant or the claimant's partner is responsible, is entitled to a guardian's allowance under section 77 of the Act.".

(5) In regulation 75G (interpretation)—

(a) in the definition of "relevant amount", for the words from "is" to the end substitute "means the amount determined in accordance with regulation 75CA"; and

(b) omit the definition of "welfare benefit".

Amendments to the Universal Credit Regulations 2013

3.—(1) The Universal Credit Regulations 2013(**7**) are amended as follows.

(2) In regulation 79 (circumstances where the benefit cap applies)—

(a) in paragraph (1) after "relevant amount" insert "determined under regulation 80A (relevant amount)";

(b) omit paragraphs (3) and (4).

(3) In regulation 80 (manner of determining total entitlement to welfare benefits) after paragraph (2) insert—

"(2A) Where the welfare benefit is housing benefit under section 130 of the Contributions and Benefits Act, the amount to be used is nil.".

(4) After regulation 80 insert—

"**Relevant amount**

80A.—(1) The relevant amount is determined by dividing the applicable annual limit by 12.

(2) The applicable annual limit is—

(a) £15,410 for a single claimant resident in Greater London who is not responsible for a child or qualifying young person;

(b) £23,000 for—

(i) joint claimants where either joint claimant is resident in Greater London;

(ii) a single claimant resident in Greater London who is responsible for a child or qualifying young person;

(c) £13,400 for a single claimant not resident in Greater London who is not responsible for a child or qualifying young person;

(d) £20,000 for—

(i) joint claimants not resident in Greater London;

(ii) a single claimant not resident in Greater London who is responsible for a child or qualifying young person.

(**7**) S.I. 2013/376, to which there are amendments not relevant to these Regulations.