Draft Regulations laid before Parliament under section 176(1) of the Social Security Contributions and Benefits Act 1992, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2007 No.

SOCIAL SECURITY

The Housing Benefit (Loss of Benefit) (Pilot Scheme) Regulations 2007

Made - - - -	*2007*
Coming into force - -	*1st November 2007*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 130B(4), 130G, 137(1) and 175(3) and (5) of the Social Security Contributions and Benefits Act 1992(**1**).

In accordance with section 176(1)(**2**) of that Act a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

In accordance with section 176(1) of the Social Security Administration Act 1992(**3**), the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

This instrument contains only regulations made by virtue of, or consequential upon, section 31 of the Welfare Reform Act 2007 and is made before the end of the period of 6 months beginning with the coming into force of that section(**4**).

Citation, commencement and duration

1.—(1) These Regulations may be cited as the Housing Benefit (Loss of Benefit) (Pilot Scheme) Regulations 2007 and shall come into force on 1st November 2007.

(2) These Regulations shall cease to have effect on 31st October 2009 unless revoked with effect from an earlier date.

(**1**) 1992 c. 4. Sections 130B and 130G were inserted by section 31(1) of the Welfare Reform Act 2007 (c. 5). Section 137(1) is cited for the definition of "prescribed".
(**2**) Section 176(1) was amended by section 31(2) of the Welfare Reform Act 2007.
(**3**) 1992 c.5.
(**4**) *See* section 173(5)(b) of the Social Security Administration Act 1992. The requirement to refer Regulations to the Social Security Advisory Committee does not apply where Regulations are contained in a statutory instrument which is made by virtue of or consequential upon a specified enactment before the end of the period of 6 months beginning with the coming into force of that enactment.

Interpretation

2.—(1) In these Regulations—

"the Fraud Act" means the Social Security Fraud Act 2001(**5**);

"attendance allowance" means —

(a) an attendance allowance under section 64;

(b) an increase of disablement pension under section 104 or 105 (increases where constant attendance needed and for exceptionally severe disablement);

(c) a payment in respect of the need for constant attendance under regulations made in accordance with section 111 and paragraph 7(2) of Schedule 8 (payments for constant attendance in workmen's compensation cases);

(d) an increase in allowance which is payable in respect of constant attendance under section 111 and paragraph 4 of Schedule 8 (industrial diseases benefit schemes);

(e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(**6**) or any analogous payment;

(f) any payment based on the need for attendance which is paid as an addition to a war disablement pension;

"disability living allowance" means a disability living allowance under section 71;

"partner" means—

(a) where a claimant is a member of a couple, the other member of that couple;

(b) where a claimant is polygamously married to two or more members of his household, any such member;

"relevant authority" has the same meaning as in paragraph 1 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(**7**);

"war disablement pension" means—

(a) any retirement pay, pension or allowance granted in respect of disablement under powers conferred by or under—

(i) the Air Force (Constitution) Act 1917(**8**);

(ii) the Personal Injuries (Emergency Provisions) Act 1939(**9**);

(iii) the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(**10**);

(iv) the Polish Resettlement Act 1947(**11**);

(v) Part VII or section 151 of the Reserve Forces Act 1980(**12**);

(b) the following pay, pension or allowances, but only the part attributable to disablement or disability—

(i) a wounds pension granted to a member of the armed forces of the Crown;

(**5**) 2001 c. 11.
(**6**) S.I. 1983/686. Article 14 was substituted and Articles 15 and 16 were amended by S.I. 2001/1420.
(**7**) 2000 c.19. Paragraph 1(1) of Schedule 7 defines a "relevant authority" as an authority administering housing benefit or council tax benefit.
(**8**) 1917 c.51 (7 & 8 Geo 5).
(**9**) 1939 c. 82 (2 & 3 Geo 6).
(**10**) 1939 c. 38 (2 & 3 Geo). Sections 3, 4 and 5 were amended by the Pensions (mercantile Marine) Act 1942, section 2, 6 and Schedule.
(**11**) 1947 c. 19 (10 & 11 Geo 6). Section 1 was amended by the Civil Partnership Act 2004, section 257 and Schedule 26, paragraph 17.
(**12**) 1980 (c.9). Amendments and repeals have been made to Part VII by the Armed Forces Act 2006, Section 358, S78(2), Schedule 14 from a date to be appointed.

(ii) retired pay of a disabled officer granted on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown;

(iii) a disablement or disability pension granted to a member of the armed forces of the Crown, other than a commissioned officer, on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown;

(iv) a disablement pension granted to a person who has been employed in the nursing services of any of the armed forces of the Crown on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown; and

(c) a payment made under article 14(1)(b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(**13**).

(2) Unless the context otherwise requires, any reference in these Regulations to a numbered section or Schedule is a reference to the section of, or Schedule to, the Social Security Contributions and Benefits Act 1992 bearing that number.

Application of pilot scheme

3. These Regulations apply in relation to a former occupier(**14**) only where the following conditions are satisfied in his case—

(a) the relevant order for possession(**15**) relates to a dwelling which is within the area of a relevant authority specified in the Schedule and was made on or after the date there specified in relation to that authority;

(b) the warning notice(**16**) was served on him by a relevant local authority specified in the Schedule on or after the date there specified in relation to that authority; and

(c) housing benefit is awarded in respect of a dwelling which is within the area of a relevant authority specified in the Schedule.

Reduction of benefit

4.—(1) The housing benefit to which the former occupier would, apart from this regulation, be entitled in respect of any week in the restriction period(**17**) is to be reduced as set out in this regulation.

(2) In any case where the former occupier's housing benefit in respect of any week in the restriction period is also subject to a reduction due to the application of section 7 of the Fraud Act(**18**) (loss of benefit for commission of benefit offences), this regulation shall be applied subject to regulation 6.

(3) The restriction period is to contain three phases—

(a) Phase A is a period of four weeks beginning on the first Monday of the restriction period;

(b) Phase B is a period of four weeks beginning on the Monday following the last day of Phase A; and

(c) Phase C is the remainder of the restriction period and begins on the Monday following the last day of Phase B.

(**13**) S.I. 2005/439.
(**14**) *See* section 130B(1).
(**15**) *See* section 130B(1)(a).
(**16**) *See* section 130B(2).
(**17**) *See* section 130B(5) and (6).
(**18**) Section 7 was amended by the State Pension Credit Act 2002 (c 16), Schedule 2, paragraphs 44 and 45 and the Tax Credits Act 2002 (c. 21), Schedule 6.

(4) Where the restriction period stops running under section 130B(6) and starts running again under that subsection, for the purposes of identifying the relevant phase, the restriction period is to start to run again from the point when it previously stopped running.

(5) The former occupier's entitlement to housing benefit in respect of any week in—

(a) Phase A is to be reduced by 10%.

(b) Phase B is to be reduced by 20%.

(c) Phase C is to be reduced by—

(i) 100%; or

(ii) where the former occupier is a person in hardship under regulation 5 (meaning of "person in hardship"), 30%.

(6) A reduction under sub-paragraphs (5)(a), (b) or (c)(ii) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

Meaning of "person in hardship"

5.—(1) A former occupier is a "person in hardship" if he—

(a) has provided the relevant authority with a signed statement, on a form approved for the purpose by the Secretary of State, of the circumstances on which he relies to establish that he is a person in hardship; and

(b) falls within paragraph (2), (3) or (5).

(2) A former occupier falls within this paragraph if—

(a) she is pregnant;

(b) a member of his family is pregnant;

(c) he is a single person aged less than 18; or

(d) he is a member of a couple and both members are aged less than 18.

(3) Subject to paragraph (4), a former occupier falls within this paragraph if he or his partner—

(a) is responsible for a child or young person who is a member of the former occupier's household;

(b) has been awarded an attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4);

(c) has claimed either attendance allowance or disability living allowance and the claim has not been determined;

(d) devotes a considerable portion of each week to caring for another person who—

(i) has been awarded an attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4); or

(ii) has claimed either attendance allowance or disability living allowance and the claim has not been determined; or

(e) is aged 60 or more.

(4) A former occupier to whom paragraph (3)(c) or (3)(d)(ii) applies is a person in hardship only for 26 weeks from the date of the claim unless he is a person in hardship under another provision of this regulation.

(5) A former occupier falls within this paragraph where, after taking account of all the circumstances of the case including those set out in paragraph (6), the relevant authority is satisfied that, unless housing benefit is paid, he, or a member of his family, will suffer hardship.