

2013 No.

SOCIAL SECURITY

The Housing Benefit and Universal Credit (Size Criteria) (Miscellaneous Amendments) Regulations 2013

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by section 123(1)(d), 130A(2) to (5), 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act(1) and sections 11(4) and 42(2) of the Welfare Reform Act 2012(2).

[The Social Security Advisory Committee has agreed that proposals in respect of these Regulations need not be referred to it (3).]

[In accordance with section 176(1) of the Social Security Administration Act 1992(4), 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 and Universal Credit (Size Criteria) (Miscellaneous Amendments) Regulations 2013 and come into force on [].

Amendment of the Housing Benefit Regulations 2006

2.—(1) The Housing Benefit Regulations 2006(5) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “child tax credit” insert—

““child who requires their own bedroom” means a child—

- (a) who is entitled to the care component of disability living allowance at the higher or middle rate prescribed in accordance with section 72(3) of the Act;
- (b) who the relevant authority is satisfied is unable, by virtue of his or her disability, to share a room with another child; and
- (c) for whom there is a bedroom in the dwelling which is additional to the number of bedrooms to which the claimant would be entitled by virtue of the size criteria in

(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 175(1) and (4) were amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2). Section 138(1) is cited for the meaning of “prescribed”.
(2) 2012 c. 5.
(3) See sections 172(1) and 173(1) (b) of the Social Security Administration Act 1992 (c.5).
(4) 1992 c.5. Section 176(1) was amended by Schedule 9, paragraph 23 to the Local Government Finance Act 1992 (c.14), Schedule 13, paragraph 3(4) to the Housing Act 1996 (c.52) and section 69(6) of the Child Support, Pensions and Social Security Act 2000.
(5) S.I. 2006/213.

regulation B13(5), 13D(3) or Schedule 2 to the Rent Officers Orders, as the case may be, were the child able to share with another child.”;

(b) in the definition of “young individual”**(6)**—

(i) at the end of paragraph (g) omit “or”;

(ii) after paragraph (h) add—

“or;

(i) who is a qualifying parent or carer;”.

(3) In regulation B13 (determination of a maximum rent (social sector))**(7)**—

(a) in paragraph (5) after sub-paragraph (b) insert—

“(ba) a child who requires their own bedroom;”;

(b) in paragraph (6) (a) and (b) for “the claimant or the claimant’s partner is (or each of them is)” substitute “a relevant person is”.

(c) for paragraph (7) substitute—

“(7) Where—

(a) more than one sub-paragraph of paragraph (6) applies the claimant is entitled to an additional bedroom for each sub-paragraph that applies;

(b) more than one person falls within a sub-paragraph the claimant is entitled to an additional bedroom for each person falling within that sub-paragraph, except that where a person and that person’s partner both fall within the same sub-paragraph the claimant is entitled to only one additional bedroom in respect of that person and that person’s partner.”;

(d) after paragraph (8) add—

“(9) In this regulation “relevant person” means—

(a) the claimant;

(b) the claimant’s partner;

(c) a person (“P”) other than the claimant or the claimant’s partner who is jointly liable with the claimant or the claimant’s partner (or both) to make payments in respect of the dwelling occupied as the claimant’s home;

(d) P’s partner.”.

(4) In regulation 13D (determination of a maximum rent (LHA))**(8)** in paragraph (3) after sub-paragraph (b) insert—

“(ba) a child who requires their own bedroom;”.

(5) In regulation 14(8) (requirement to refer to rent officers) in the definition of “change relating to a rent allowance” **(9)** for “or (g)” substitute “, (g) or (h)”.

(6) In paragraph 2(3) of Schedule 2 (excluded tenancies)**(10)** after paragraph (g) add—

“(h) an occupier becomes or ceases to be a child who requires their own bedroom where that affects the size criteria, as set out in Schedule 2 to the Rent Officers Order, applicable in the claimant’s case.”.

(6) The definition of “young individual” was substituted by S.I. 2007/2868 and amended by S.I. 2010/3835, 2011/1736 and 2011/1740.

(7) Regulation B13 was inserted by S.I. 2012/3040 and amended by S.I. 2013/665.

(8) Regulation 13D was inserted by S.I. 2007/2869 (as amended by S.I. 2008/586) and amended by S.I. 2009/614, 2010/2835 and 2013/665.

(9) The definition of “change relating to a rent allowance” was amended by S.I. 2010/2835 and 2013/665.

(10) Paragraph 2 was substituted by S.I. 2007/2869 and amended by S.I. 2010/2835 and 2013/665.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

3.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006⁽¹¹⁾ are amended as follows.

(2) After the definition of “child tax credit” in regulation 2(1) (interpretation)⁽¹²⁾ insert—

““child who requires their own bedroom” means a child—

- (a) who is entitled to the care component of disability living allowance at the higher or middle rate prescribed in accordance with section 72(3) of the Act;
- (b) who the relevant authority is satisfied is unable, by virtue of his or her disability, to share a room with another child; and
- (c) for whom there is a bedroom in the dwelling which is additional to the number of bedrooms to which the claimant would be entitled by virtue of the size criteria in regulation B13(5), 13D(3) or Schedule 2 to the Rent Officers Orders, as the case may be, were the child able to share with another child.”.

(3) In regulation 13D (determination of a maximum rent (LHA))⁽¹³⁾ in paragraph (3) after sub-paragraph (b) insert—

“(ba) a child who requires their own bedroom;”.

(4) In regulation 14(8) (requirement to refer to rent officers) in the definition of “change relating to a rent allowance” ⁽¹⁴⁾ for “or (f)” substitute “, (f) or (g)”.

(5) In paragraph 2(3) of Schedule 2 (excluded tenancies)⁽¹⁵⁾ after paragraph (f) add—

“(g) an occupier becomes or ceases to be a child who requires their own bedroom where that affects the size criteria, as set out in Schedule 2 to the Rent Officers Order, applicable in the claimant’s case.”.

Amendment of the Universal Credit Regulations 2013

4.—(1) Schedule 4 to the Universal Credit Regulations 2013⁽¹⁶⁾ is amended as follows.

(2) In paragraph 9—

(a) In sub-paragraph (2) after “if the person” insert “normally”;

(b) After sub-paragraph (2)(f) insert—

“(g) a child or qualifying young person for whom no-one in the renter’s extended benefit unit is responsible.”;

(c) In sub-paragraph (3) after “(or either joint renter)” insert “or a person described in paragraph 2(d)”.

(3) For paragraph 12⁽¹⁷⁾ substitute—

“Additional room

12.—(1) A renter is entitled to an additional bedroom if they satisfy any of the following conditions—

- (a) the overnight care condition (see sub-paragraph (3));
- (b) the foster parent condition (see sub-paragraphs (4) and (5));
- (c) the disabled child condition (see sub-paragraph (6)).

⁽¹¹⁾ S.I. 2006/214.

⁽¹²⁾ There are amendments not relevant to this instrument.

⁽¹³⁾ Regulation 13D was inserted by S.I. 2007/2869 (as amended by S.I. 2008/586) and amended by S.I. 2009/614, 2010/2835 and 2013/665.

⁽¹⁴⁾ The definition of “change relating to a rent allowance” was amended by S.I. 2010/2835 and 2013/665.

⁽¹⁵⁾ Paragraph 2 was substituted by S.I. 2007/2868 and amended by S.I. 2010/2835 and 2013/665.

⁽¹⁶⁾ S.I. 2013/376.

⁽¹⁷⁾ Paragraph 12 was amended by S.I.2013/803.

(2) Sub-paragraph (1) applies subject to sub-paragraphs (7) to (9).

(3) A renter satisfies the overnight care condition if—

(a) they are in receipt of either—

(i) the care component of disability living allowance at the middle or highest rate;

(ii) attendance allowance; or

(iii) the daily living component of personal independence payment; and

(b) one or more persons who do not live in the renter's accommodation are engaged to provide overnight care for the renter and to stay overnight in the accommodation on a regular basis; and

(c) overnight care is provided under arrangements entered into for that purpose.

(4) A renter satisfies the foster parent condition if the renter is—

(a) a foster parent; or

(b) an adopter with whom a child has been placed for adoption.

(5) For the purposes of sub-paragraph (4) “foster parent” includes a person who would be a foster parent, but for the fact that they do not currently have any child placed with them, provided that any period since the date when their last placement ended (or, if they have not yet had a child placed with them, since the date when they were approved to be a foster parent) does not exceed 12 months.

(6) A renter satisfies the disabled child condition if they are responsible for a child who would (but for the provisions of this paragraph) be expected to share a bedroom and that child is—

(a) in receipt of the care component of disability living allowance at the middle or highest rate; and

(b) by virtue of their disability, unable to share a room with another child.

(7) Where a renter, or one or both of joint renters, satisfy—

(a) the overnight care condition; or

(b) the foster parent condition

they are entitled to one additional bedroom by virtue of satisfying each condition.

(8) Where a renter, or one or both of joint renters, satisfy the disabled child condition in relation to one or more children, they are entitled to as many additional bedrooms as are necessary to ensure that each such child has their own bedroom.

(9) Where a renter, or one or both of joint renters, satisfy two or more of—

(a) the overnight care condition;

(b) the foster parent condition; or

(c) the disabled child condition

the total number of additional bedrooms they are entitled to is determined by adding together the number of additional bedrooms which they are entitled to by virtue of satisfying each of those conditions.”.

Date

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit Regulations 2006 (“the Housing Benefit Regulations”), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 and the Universal Credit Regulations 2013 (“the Universal Credit Regulations”).

Regulation 2(2) inserts a definition of “child who requires their own bedroom” into regulation 2(1) of the Housing Benefit Regulations. This applies to a child who is entitled to the care component of disability living allowance at the higher or middle rate, by reason of their disability is unable to share a bedroom with another child and for whom there is a bedroom that is additional to those a claimant would be entitled to were the child able to share a bedroom.

It also amends the definition of “young individual” so that a person who is a qualifying parent or carer (also defined in regulation 2 of the Housing Benefit Regulations) is not a young individual and so will not be subject to the shared accommodation rate when calculating the amount of rent eligible to be met by of housing benefit in the private sector.

Regulation 2(3) amends regulation B13 of the Housing Benefit Regulations, which makes provision for the determination of the amount of rent eligible to be met by way of housing benefit for claimants renting in the social sector. The amendments do two things. The amendments in regulation 2(3)(b) to (d) ensure that when determining whether a dwelling is under-occupied for the purposes of applying a reduction, a room is included where a joint tenant (or a joint tenant’s partner) requires overnight care or is a qualifying parent of carer.

The amendment in regulation 2(3) (a) ensures that where one of the occupiers of the dwelling is a child who requires their own bedroom, one is allowed under the size criteria applicable in the claimant’s case.

Regulation 2(4) makes a similar amendment in respect of a child who requires their own bedroom to regulation 13D of the Housing Benefit Regulations, which makes provision for the determination of the amount of rent eligible to be met by way of housing benefit for claimants renting in the private sector to whom the local housing allowance applies. However under regulation 13D there is a maximum of four bedrooms.

Regulation 2(5) amends regulation 14 of the Housing Benefit Regulations, which applies to private sector claimants not covered by the local housing allowance and to some social sector claimants where the local authority considers the rent to be unreasonably high. Taken in conjunction with the amendment to Schedule 2 made by regulation 2(6), this amendment ensures that a referral to a rent officer will be made if a child becomes, or ceases to be, a child who requires their own bedroom.

Regulation 3 makes equivalent amendments to regulations 2, 13D and 14 of and Schedule 2 to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 in respect of a child who requires their own bedroom. (These Regulations have no equivalent to regulation B13 of the Housing Benefit Regulations and they do not apply to young individual.)

Regulation 4(2) amends paragraph 9 of Schedule 4 to the Universal Credit Regulations, which specifies who should be treated as part of a renter’s extended benefit unit for the purposes of the housing costs calculation. The purpose of the amendment is to ensure that only children whom the renter is responsible for (within the meaning of regulation 4 of the Universal Credit Regulations) are treated as part of the extended benefit unit and allocated a room under the size criteria.

Regulation 4(3) substitutes a revised version of paragraph 12 of Schedule 4 to the Universal Credit Regulations. The revised wording allows for an additional room to be allocated for a child who would usually have to share a room, if:

(a) they are entitled to the care component of disability living allowance at the higher or middle rate, and;

(b) by reason of their disability, they are unable to share a bedroom with another child.

A full impact assessment has not been produced for this instrument as it has no impact on the private sector or civil society organisations.