

**The Housing Benefit and State Pension Credit  
(Temporary Absence)(Amendment) Regulations 2016  
(S.I. 2016 No. 624)**

**Report by the Social Security Advisory Committee under  
Section 174(1) of the Social Security Administration Act  
1992 and statement by the Secretary of State for Work and  
Pensions in accordance with Section 174(2) of that Act**

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***Presented to Parliament pursuant to Section 174(2) of the Social Security  
Administration Act 1992***

**July 2016**



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# **The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016**

## **INTRODUCTION**

1. The Department welcomes the Social Security Advisory Committee's (SSAC) report on The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016 which it has carefully considered and reviewed.
2. The Department would also like to thank the organisations and individuals who responded to the Committee's consultation.
3. The regulations, which will come into force in July 2016, will change the period of time for which person who is absent from Great Britain can remain entitled to Housing Benefit and State Pension Credit. In general, this period will be 4 weeks rather than the current 13 weeks although *Ministers have decided that, in specific circumstances, the allowable period can be longer than 4 weeks and have given further consideration to this in light of SSAC's report.*
4. Ministers have decided that the current 13 week allowable temporary absence period is too long to continue to pay means tested safety net benefits intended to support people living in Great Britain, and that it should be set at 4 weeks to align with the allowable period in other benefits, including Universal Credit. This sets a reasonable time period in which entitlement to Housing Benefit and State Pension Credit can be extended in circumstances when under the normal rules, entitlement to those benefits would cease.
5. These benefits provide assistance with immediate need to recipients and are not intended to support trips outside Great Britain. As such, the length of such extensions to entitlement should take into account that, in effect, taxpayers fund such extensions as well as recognising the fact that people who are not on those benefits but who are nonetheless on relatively low incomes have to fund trips from their own resources.
6. The Committee sought responses on the potential effects of this policy change on particular groups, claimants' families and others who live with them as well as upon local authorities and the voluntary sector. It also sought any robust data or other evidence which would indicate the scale and nature of the potential effects.
7. The Committee made recommendations for the Department as follows: building an evidence base and amending regulations accordingly; considering further protection for certain groups; introducing discretion to apply individual allowable absences periods on a case-by-case basis; and setting the general absence from Great Britain period at 8 weeks.

## **THE COMMITTEE'S RECOMMENDATIONS**

**Decisions should be informed by a robust evidence base and we are disappointed that this has not been provided in support of these proposals.**

**We therefore recommend that the Department takes urgent action to rectify that position and further consider whether it would be appropriate to amend the existing draft legislation to exempt or otherwise protect certain cases highlighted by this report.**

*The Government accepts in part this recommendation.*

*The reforms to the temporary absence rules in both Housing Benefit and Pension Credit align those benefits with the equivalent general rules in other benefits on extensions to entitlement when a person is outside of Great Britain, such as Income Support and Universal Credit.*

*Therefore, it makes sense to prepare people for the rules in Universal Credit, as well as aligning Pension Credit to the other benefits, and that people should be expected to modify their plans for absences outside of Great Britain accordingly.*

*The Government would also like to clarify that Benefits such as Housing Benefit and Pension Credit provide assistance to people in Great Britain with immediate need. They are not available to indirectly fund trips outside of Great Britain.*

*Nonetheless, Ministers accept that some flexibility is needed to cater for longer extensions to recognise specific circumstances. Ministers believe that the general 4 week absence from Great Britain rule is reasonable but has however reconsidered its position on cases for those Housing Benefit claimants fleeing from domestic violence and has changed this to an allowable absence of 26 weeks.*

*The Government also reconsidered its position on a member of the armed forces and widened its definition to those “posted overseas” as opposed to “away on operations”.*

**Where the need for further protection is identified, the Committee recommends that the Department consider the following options:**

**(a) the introduction of further exemptions for specific groups;**

*As stated above, the Government accepts in part this recommendation. Although it considers that a general 4 week absence from Great Britain rule is reasonable, and that the extensions to that rule provided in the regulations provide a reasonable degree of flexibility for specific circumstances, the report does highlight two areas where the Government has decided to make modifications for Housing Benefit claimants:*

- a. a widening of the current extension to members of the armed forces. Replacing the term “away on operations” to “posted overseas” reflecting UC definitions; and*
- b. for victims of domestic violence extending the period of allowable absence to 26 weeks.*

**(b) giving decision-makers discretion to extend the allowable period in individual cases where a test of good cause is satisfied;**

*The Government does not accept this recommendation. Introduction of discretion in individual cases falling outside of the general rule (and the extensions to that rule) would provide uncertainty for both customer and decision makers, as well as the potential for additional administrative costs.*

- (c) **setting the period that PC and HB can be paid during temporary absences from Great Britain (GB) at 8 weeks rather than the 4 weeks that is proposed. This would be consistent with Working Tax Credits and, in our estimation, would capture the hardest cases that are likely to be impacted by these proposals.**

*The Government does not accept this recommendation in the main, but has recognised domestic violence cases as mentioned above. It makes sense going forward to align with other DWP administered benefits, as well as with Universal Credit (which itself is replacing Working Tax Credit).*

**The Committee would ask the Department to share the rationale for its decision on each of the groups highlighted in our report, and for sight of the evidence that informed these conclusions.**

*The Government accepts in part this recommendation.*

*The Committee has identified that there is no firm evidence in terms of the potential impact of the changes to temporary absence rules on specific groups. Therefore, the Department will monitor the effect of this policy through its normal communication routes with both DWP operations and local authorities, including the LA wave survey and any further available information such as customer correspondence.*

*In addition to on-going monitoring, the Department will also evaluate the policy change in 2017 through the use of available information including correspondence, feedback from DWP Operational staff and the LA wave survey.*

*For Pension Credit we will have information about the number of customers who have their Pension Credit claim terminated because they are, or plan to be absent from GB beyond the allowable absence. And, where a Pension Credit customer phones to report that they will be or have returned from a temporary absence abroad we plan to ask whether the policy change affected their plans in any way and if so what the impact was.*

*The Government expects people will assess the affordability of an absence greater than 4 weeks and may modify their choices and behaviour in the light of the new rules. It is unreasonable to expect taxpayers to continue to fund such extensions. People who are not on those benefits but who are nonetheless on relatively low incomes have to make similar choices based on their own resources.*

The Rt. Hon Iain Duncan Smith MP  
Secretary of State for Work and Pensions  
Caxton House  
London  
SW1H 9NA

16 March 2016

Dear Secretary of State,

**The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016**

***Introduction***

These draft regulations were considered by the Committee at its meeting on 27 January 2016.

The proposals will reduce the maximum period in respect of which Housing Benefit (HB) and Pension Credit (PC) can be paid during temporary absences from Great Britain (GB). Specifically, the intention is to reduce the current period of thirteen weeks to four weeks from 1 April 2016, although anyone absent from GB on that date will be transitionally protected. Underlying the change is the desire to align the temporary absence rules between HB and PC and with Universal Credit (UC). Various other adjustments are incorporated into the proposals.

This change was signalled by the Chancellor of the Exchequer in his Autumn Statement of 25 November 2015:

*The government will end the payment of Housing Benefit and Pension Credit to claimants who travel outside of Great Britain for longer than 4 weeks consecutively, from April 2016.<sup>1</sup>*

Treasury figures record savings to the Exchequer of £25 million in 2016-17.<sup>2</sup> The Autumn Statement goes on to predict £20m for 2017/18, £15m for 2018/19 and £10m for each of the following two years.

The Committee was disappointed that the Department was not able to provide any meaningful data relating to those who were likely to be adversely affected by the proposals. It was on that basis that the Committee asked for the formal reference of the proposals in accordance with sections 173 and 174 of the Social Security Administration Act 1992. The Committee took the view that it would be important to establish what evidence was available about the people likely to be impacted and their circumstances. Accordingly we undertook a 4 week public

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<sup>1</sup> Spending Review and Autumn Statement 2015

<sup>2</sup> DWP's own figures state that the "change will provide savings to the tax payer of £20m in the first year".

consultation during the period 1-29 February, and we are grateful to the 13 individuals and organisations<sup>3</sup> who took the time to respond.

The Committee would also like to thank the Department's officials for their assistance throughout the process.

### ***An overview***

A fundamental condition of entitlement to HB is that a claimant is liable to make payments in respect of a dwelling in GB which they occupy as their home. For PC, entitlement also depends upon presence in GB. It follows that for absences from the home, as well as for absences from GB, any continuing entitlement is reliant upon the satisfaction of a legal provision which will treat the person as present even though they are absent.

The current position for HB is that there are no particular rules in relation to temporary absence from GB – they are simply subsumed within the more general rules concerning temporary absences from the home. As far as those general rules on temporary absences are concerned, if the absence is expected to last more than 13 weeks, the award of HB is terminated with effect from the date on which the absence began. If the expectation is that the person will return to the home within 13 weeks and does not sub-let it during the period of absence, the award will continue throughout the period of absence.

Since the Government's policy has been to restrict the period of entitlement in respect of temporary absence from GB rather than periods of temporary absence more generally, it means that for HB there will now be two differing sets of rules. The rules of temporary absence will continue to focus around the 13 week figure, whereas temporary absence from GB will have a specific provision which ties it to a figure of four weeks. PC, on the other hand, has a different approach. The current rule in PC is that entitlement can continue for absences outside of GB for up to 13 weeks where the absence is unlikely to exceed 52 weeks. This is to be replaced by a rule that absences outside of GB can continue for a maximum of four weeks, but only where the absence is expected to extend no longer than four weeks and where the absence does, in fact, last no longer than four weeks.

Apart from that main change the draft regulations introduce different periods of entitlement during temporary absences from GB for certain occupations or certain sets of circumstances (for example members of the armed forces, people absent abroad in connection with the death of a close relative, for medical treatment or accompanying a dependent child undergoing medical treatment). Separate provision currently exists for these differing groups and the Department has, very helpfully, provided an appendix with the explanatory memorandum, setting them out and comparing their treatment under the rules as they presently apply and how they will fare when the revised rules take effect. Essentially the current regime which allows entitlement for periods of 13 weeks or 52 weeks is due to be replaced with a regime which will allow entitlement to continue for four weeks, eight weeks or 26 weeks.

It should also be noted that it is possible for HB recipients to be receiving another benefit in addition. For those working it is likely to be Working Tax Credit (WTC) where the rules allow either 8 or 12 weeks of absence abroad – different periods from both the existing and proposed periods for HB.

### ***Rationale***

The rationale for the proposals is set out in the explanatory memorandum provided for the Committee. There are two aspects to that rationale.

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<sup>3</sup> Full list of consultation respondents attached at appendix 2.



The first is that “13 weeks is too long and should be shorter.” An explanation as to why the Government considers it to be too long is not provided. As far as PC is concerned the Department states:

*“... the Department does not retain statistics on the number of Pension Credit claimants who make use of the temporary absence from Great Britain rules nor on the destinations that claimants visit nor on the reason for their absence.”*

We understand that this is the same for HB where the difficulties of obtaining data from various local authorities are more obvious. However without a better understanding of what is happening in practice it is difficult to identify a clear weakness in the current policy or how it operates, or devise a policy to address it.

The other aspect of the rationale is the stated desire to align the rules for HB and PC with those in UC. The case for this is stronger with HB which will eventually be fully absorbed by UC when that benefit is fully rolled-out (although not for someone receiving HB and WTC at present). However the argument for alignment with UC relies on an assumption that the UC rules on temporary absence from GB are already working smoothly and fairly. We believe that it is too early to draw that conclusion. The Committee would welcome a commitment from the Government to monitor the temporary absence rules so that it has a more solid foundation on which to develop its policy for all benefits.

### ***Impact***

It has been difficult for the Committee to gauge the impact of these draft regulations in the absence of a detailed impact analysis. Indeed, that was the primary reason for the Committee’s decision to take the regulations on formal reference and to undertake a public consultation. Although the consultation has provided only limited evidence, respondents have helped to fill in some of the gaps by providing examples of how particular groups may potentially be impacted by the proposals. We have outlined some of those examples below.

#### *Working overseas*

Respondents to the consultation drew attention to the benefits of working overseas. Such spells can enhance a person’s job prospects or improve their future career path.

It would be disappointing if this measure deterred people from taking advantage of work opportunities overseas or from offering their service as voluntary aid worker. Some individuals on modest wages might feel obliged to look for alternative employment.

*There may well be circumstances where there is just as good a reason for a claimant to temporarily absent themselves from GB as for being absent from home within GB. For example: gaining work experience or additional skills (for example, language skills) in order to improve chances of finding work either in or outside of GB or progressing in existing employment; temporary placement in work abroad by an employer ... to improve skills, work experience or work progression opportunities.*

**Chartered Institute of Public Finance and Accountancy**

Inter-generational households are increasingly common as housing shortages and high rents mean that young people tend to live with their parents for longer. These rules could have the unfortunate and possibly unintended consequence of making the arrangements unsustainable if the affordability of bedroom allocated to a young person become prohibitive during an absence abroad because of the under-occupation charge and local housing allowance.

(a) *Her Majesty's Armed Forces*

These proposals introduce a more generous treatment for members of Her Majesty's Armed Forces posted overseas on operations. Under current rules they would not get HB if their absence was likely to extend beyond 13 weeks but since, as the Department states, deployments abroad usually last longer than 13 weeks, extending the rule to 26 weeks, in line with UC legislation, is logical.

The definitions around this exemption are tightly drawn. This has the advantage of providing clarity but the disadvantage of creating some hard cases. A civilian, for example, doing allied or subsidiary work alongside a member of the Armed Forces would be excluded from the definition and would therefore come under the four week rule. On the Department's own analysis, a member of the Armed Forces posted overseas would probably be excluded from HB on income grounds, whereas a nurse working alongside would be excluded from the 26 week rule. In short the nurse is more likely to have an entitlement to HB and more likely to lose it.

The response received from the Royal British Legion highlighted the fact that the 26 week rule only applies to members of the Armed Forces who are posted overseas on operations. This differs from the rule in the UC Regulations where the rule applies to members of the Armed Forces regardless of whether they are serving in an operational or non-operational capacity.

*... unlike Universal Credit regulations this amendment currently only includes members who are "away on operations" as eligible for exclusion from the 4 week restriction... Yet operations are only one reason why a member of the Armed Forces may be posted overseas... As with operational deployments, non-operational postings will far exceed the 4 week temporary absence from Great Britain that the proposed regulations will allow.*

**Royal British Legion**

Last year the Committee scrutinised minor changes to a range of benefit rules which would enhance the recruitment of people to the various Reserve Forces of the Royal Navy, Royal Marines, British Army and Royal Air Force, which we understood was a Government imperative. It appears that these changes may, on the contrary, prove to be a disincentive for some people to join.

(b) *Mariners*

Mariners and continental shelf workers are to be placed in the same category as members of the Armed Forces. They too will be able to be absent from GB for 26 weeks without losing benefit. Again this throws into sharp relief what happens to those who are similarly absent from GB for periods commonly longer than four weeks and who do a fairly similar kind of work. Share fishermen, for example, will retain entitlement for four weeks, a reduction from the current 13 weeks.

It would be useful to have a greater understanding of why that distinction has been drawn and access to any available data that supported such a decision. No evidence has been provided to us that explains why mariners are being treated differently to aid workers, Ebola nurses and others working overseas, and we would welcome an explanation from the Government on this point.

### *Illnesses and bereavement*

#### *(a) Absences in connection with a death*

Under the new rules, if the absence abroad is in connection with the death of a close relative, the four week period of continuing entitlement can be extended by a further four weeks, giving an overall eight week maximum.

*Mr J ... came to England in 1960 from Jamaica and never returned due to lack of finances... when his brother died, there was no-one to ensure a proper burial and deal with the estate. Mr J used his life savings of £7,000 to ... return to Jamaica to arrange a burial and wind up his brother's affairs. Mr J needed to take a credit union loan to manage unforeseen expenses, as costs were higher than anticipated. This took just under 12 weeks, because many institutions in Jamaica require face to face appointments and original documents.*

**Peabody**

The kinds of situation where people have relatives abroad who become critically ill may not be straightforward. Those who are called upon to be at the bedside of a dying relative may feel constrained to stay and care for family members and be reluctant to cut short their stay. The rules may work as designed, but much depends on how quickly death occurs, how soon the funeral can be arranged and other issues relating to settling the estate. In other cases the critical period of illness may extend to several weeks.

*... we have over 10,000 Nepalese residents with many of pension age who were given the right to remain in this country... Currently, in nearly every case the individual will return to Nepal at least one a year, if not twice under the existing 13 week rules. The restriction to 4 weeks will have an enormous impact on these individuals. Many visits are for funerals or medical treatment and the local community leaders have explained that sometimes it can be 2 months before matters are finalised for the person and the family.*

**Rushmoor Borough Council**

*An East of Scotland CAB reports a Polish client who has lived in Scotland for nine years and has a seven year old daughter. The client went to Poland for two weeks to look after her sick mother. However, when she was there another relative passed away, so she ended up staying for more than four weeks.*

**Citizens Advice Scotland**

Therefore the period of critical illness could have important repercussions. The delay in returning home could, for example, mean the loss of eight weeks' HB. We acknowledge that it is not possible to avoid this effect completely and that, wherever the line is drawn, there will always be someone on the other side of it. Nonetheless we are of the view it would be helpful to do some analysis of situations where people need to leave GB at very short notice in such circumstances in order to make a fair determination of what is reasonable, balancing the needs of those impacted and the continuing financial constraints upon the Department.

It may be helpful to consider the evidence that was accumulated when the Government decided it was appropriate for a period of 12 weeks to be allowed under the tax credit rules for a claimant to remain abroad because a member of their family had died.

#### *Absences in connection with medical treatment*

Housing Benefit can be paid for up to a year to those who have travelled outside GB for the purposes of receiving medical treatment or approved medical convalescence. Entitlement to PC can continue for as long as the medical treatment is needed. The same rule applies where the claimant accompanies a partner, a child or a qualifying young person abroad so that they can receive medical treatment. In PC the rule on accompaniment is 13 weeks. Under the proposed new rules, there will be a six month period in both benefits regardless of whether it is for personal medical treatment or to accompany another. This is consistent with the rule already in place for those in receipt of UC.

It is similarly proposed that anyone hospitalised abroad will be eligible to receive continuing benefit for up to 26 weeks (the current HB rule is 52 weeks). The same applies if the claimant is accompanying a partner, child or qualifying young person for medical treatment abroad. Whilst this particular change may be sufficient to prevent difficulties for those who fall within the qualifying conditions, there are other relationships and situations where, upon inspection of the detailed conditions, the person will not qualify and could face significant financial consequences.

*Miss D ... went with her sister to Germany for a fortnight's holiday. Whilst there, her sister had a stroke...Miss D remained in Germany for a further three weeks until her sister was deemed fit to return home. Under the proposed regulations, Miss D would have faced a tough decision. This would be between choosing to stay and support her sister in a foreign country, or leave her within 28 days to avoid facing rent arrears.*

**Peabody**

The situation of someone temporarily absent from GB and who is providing medically approved care for a UK resident (or caring for a child whose parent is receiving medically approved care or medical treatment) is different. Whereas HB for 52 weeks is currently available, under the new rules this will be reduced to four weeks.

#### *Fear of violence*

A person who leaves the dwelling they occupy as their home through fear of violence in that dwelling by someone who was formerly a member of the person's family will only be eligible for continuing benefit for four weeks if the absence is outside GB. Currently they can receive up to 52 weeks of continuing benefit.

The Committee acknowledges that the Department has, in very recent times, introduced legislation which goes some way to accommodating the particular needs of those fleeing domestic violence. However this change appears to be a step in the other direction.

*This would be problematic for women and children affected by domestic violence, as they may have be forced to go and to stay abroad for longer than 4 weeks ... with the perpetrator and/or their family knowing that this would jeopardise their ability to retain their benefits and/or their home on their return to the UK.*

**Birmingham and Solihull Women's Aid**

Respondents have pointed out that going from 52 weeks to four weeks is a significant drop. It is likely to increase the chances of people returning to the dwelling prematurely, putting themselves at risk.

*This proposal leads to concerns that this could lead to people being deterred from leaving an abusive situation due to concerns about losing support to pay housing costs after a month. It could also lead to vulnerable people feeling forced to choose between returning to an abusive household within a month or risking rent arrears or homelessness.*

**Citizens Advice Scotland**

Allowing four weeks may not be enough time in which to allow the relevant authorities to tackle the problems that the victim is facing.

*Our concern is that some victims, who are worried about their tenancies and financial liabilities, might move back to their dwelling prematurely and back into a risky situation. Quite simply, 4 weeks is unlikely to be adequate for a victim of domestic violence to seek help and for statutory agencies to respond e.g. through the criminal justice system, assessing vulnerabilities, implementing security measures, etcetera.*

**Housing Rights/Law Centre (NI)**

In terms of the scale of these impacts, the figures provided by the Department require further clarification. DWP states that “*the temporary absence changes will affect around 130,000 HB and PC claimants (taking account of overlaps).*” The assumption is that “*over half of these will adapt their behaviours to avoid any financial losses.*” That ought to mean that the Department estimates that a figure of something a little short of 65,000 will not modify their behaviour or make a decision which will prevent a loss of benefit. Instead we are told that it will be around 45,000 who will continue to take an absence of between four and 13 weeks. That leaves a gap in the region of 20,000 for which an explanation is needed.

It is also worth reflecting on how the loss of £600 on average is likely to impact those who will be affected by this change. Frequently we see the scale of any loss computed over the course of a year where adjustment can become more manageable. What is distinctive about this measure is that any loss will be immediate and in full. It will mean that some people will be

returning to GB to face a significant debt problem which, at its worst, could lead to homelessness.

*In general, it is likely that the proposed changes will result in significant increases in rent arrears, homelessness and associated increases in avoidable public expenditure. If we take the Department's forecasts to be accurate, for illustrative purposes, the scale of the potential impact is immediately evident. It is clear from our experience in the advice sector that those claimants affected by these changes are highly unlikely to have £600 in disposable income to begin with. This inevitably means that these households will fall into rent arrears, which could have serious effects on their ability to sustain their tenancies.*

**Citizens Advice Northern Ireland**

## **Equality Issues**

### *Black and minority ethnic groups*

The Equality Analysis for PC states that “it is possible that Asian and Asian British claimants may be disproportionately affected by this change although we do not have actual figures to confirm or refute this”. While no data are available to confirm this, given the nature of the policy we think it highly likely that the black and minority ethnic groups will be impacted disproportionately and we ask the Government to provide a fuller explanation of its position in this respect.

In the Committee's view, those most likely to be temporarily absent from GB in connection with the death of a close relative, for instance, will be those with close relatives outside GB. The same applies to those wishing to visit friends and relatives in more remote parts of the world.

*On informing the communities about the change of rule when going abroad, many are disappointed with the ruling as that would not give them sufficient time to visit their villages in the rural parts of Nepal due to the following reasons:*

- *Unreliable transport system by road.*
- *Distance to the villages from Kathmandu – travel time would have already taken 3 to 4 days before they even commence their journey from their nearest town to their villages. From there many would have to walk to their villages.*
- *Return journey would take about the same amount of time for them to travel back to the UK.*

*This means that they would have already lost about 5 days to a week out of the four weeks entitlement leaving them only 3 weeks for their visit.*

**Ghurkha Welfare Officer**

Age

As with any measure relating to PC the question is whether the impact upon older people is justified for the purposes of satisfying the principles set out in the European Convention on Human Rights. Some grand-parents take the opportunity to stay with family members who have emigrated and perhaps look after the children during the long school holidays. This proposal is may lead to fewer visits of this nature and those which do take place may be for a shorter duration.

The Committee is not persuaded that the Department is correct in assuming a narrow definition of the family for the purposes of completing the Family Test Assessment. In the relevant document the Department states: “the policy will have a minimal impact on family life because the changes only apply to absences outside GB.” Overall we take the view that the impact upon family life in its broader sense will be detrimental to its well-being.

*As well as Asian countries, including India and Pakistan, we know that many older people in Great Britain have families in the Caribbean or who have moved to countries such as Australia and New Zealand. It is difficult to have close relatives, including grandchildren, living so far away. So when people are able to make the journey, they want to make the trip worthwhile by staying some time due to the expense and effort involved, including the time needed to get over a long journey. Sometimes families contribute to the airfare, but they are unlikely to also be able to pay their older relative's rent and other bills while they are away.*

**Age UK**

### *Disabilities*

The Department acknowledges that both older people and disabled people are more likely to need to go outside GB for medical treatment, or to need hospital treatment when they are abroad.

### **Conformity with UC and Complexity**

Aligning the rules between benefits has definite advantages. This measure is seeking a degree of commonality between PC and HB and then between these benefits and UC on the issue of temporary absences abroad.

Contributors to our consultation have pointed out inconsistencies between the benefits despite the goal of alignment. They have also drawn attention to the complexity of the new rules.

*These changes are more complex than first appears. The range of discretionary options for LAs is now much wider. The fairly straightforward 13/52 week system now seems to be replaced by a 4/8/13/26/52 week system depending on circumstances. This will not only be confusing for claimants, but complex for HB departments or the DWP having to work all this out. Increased complexity makes it far less likely to save the money that the Government hopes it will.*

**Hanover Housing Association**

*These proposals however, whilst aligning housing benefit rules with universal credit, result in the creation of new differences in*

- *The treatment of periods of temporary absence from GB between housing benefit and pension credit*
- *The treatment of periods of temporary absence inside and outside of GB within housing benefit rules*

*Rather than aligning rules... these changes have the effect of introducing further differences in treatment, resulting in a lack of consistency and potential confusion for claimants and decision makers in situations where housing benefit claimants or pensioner claimants receiving pension credit, with the same circumstances and reasons for being temporarily absent from home, are absent either elsewhere within GB or are absent abroad.*

**Chartered Institute of Public Finance and Accountancy**

### ***Additional administrative costs***

The legislation relating to HB applies equally if a partner, a dependant or a non-dependant member of the household is temporarily absent abroad. Shortening the period of allowed absence has the potential for creating more administrative work for local authorities which the Department has acknowledged. If, for example, a non-dependant regularly works overseas for a month at a time, the four week rule will almost invariably be breached and the claimant's award of benefit will need to be superseded on the grounds of a change of circumstances. That will mean removing the non-dependant's assumed contribution to household income, whilst also taking account of the impact of the under occupation rules and local housing allowance category. Upon the non-dependant's return to GB, another supersession will be needed to return to the previous award of benefit. Although many families are unlikely to report each change of circumstances, there is a legal obligation to notify such changes as soon as they occur. The Department therefore needs to give further consideration to how the operation of this can be strengthened in practice.

If a partner is temporarily absent from the home for more than four weeks and performing work in one of the unprotected occupations, the partner will be treated as absent from the home and HB will be adjusted on that basis. However the disaggregation is not symmetrical. Although absent from the home the partner would continue to be treated as a member of the household for up to a year. Their wages would consequently continue to be taken into account. We think that understanding this will be difficult for claimants to grasp and for LA staff to explain. In our view, being temporarily absent from the home is much the same as being temporarily absent from the family who live in it. The rule is likely to strike people as essentially unfair because it will appear that the rules conspire to take benefit away with both hands at the same time.

The rules will also mean that the numbers of cases where awards of HB and PC are terminated as the claimant leaves GB will increase. Upon the claimant's return, LAs and the DWP will face the added administration costs associated with handling repeat claims for benefit. And those who anticipate being absent for more than four weeks, but actually return to GB sooner will be hit particularly hard. For example, a person who informs the Department that they are leaving GB for a planned five week trip will have their HB award terminated as a result, but if they return sooner than expected after a fortnight's absence they will be unable to recoup the lost fortnight's benefit. Conversely, someone who anticipates being away for less than four weeks but actually



stays away longer will be entitled to four weeks HB payment. This is because an individual must be in GB immediately prior to making a claim.

It may also be necessary for HMRC to make clear in their communications that their more generous limits for overseas absences should not be assumed as the limit for other benefits.

A respondent to our consultation suggests that people's experience under the new rules may encourage the non-reporting of future absences. All of these costs need to be factored in.

### **Northern Ireland**

Concern has been raised about the implications for Northern Ireland. Clearly the existing legislation is framed in terms of absences from GB rather than from the UK and therefore the proposals in relation to absences do not signify a change in this principle. Nonetheless the change highlights existing difficulties associated with this distinction.

*... claimants moving from Great Britain to Northern Ireland will be adversely impacted by this new approach ... For example, a claimant living in Glasgow who enrolls in a training course in Belfast might lose her entitlement to benefit. She would not be so affected if the training took place in Cardiff. We can find no rationale for reducing the geographical scope of the regulations to Great Britain, and thereby limiting entitlement to those moving between Great Britain and Northern Ireland.*

**Housing Rights/Law Centre (NI)**

We can understand the point being made in the joint response from Housing Rights and Law Centre (NI). The fact that a rationale existed when the original policy was devised does not mean that that same rationale continues to apply many years later and especially when the policy is changed. It may be that the rationale for referring to GB rather than the UK in this narrow legislative field of temporary absences has been lost over time. If so that, in itself, ought to constitute good grounds for re-examining the basis for the policy.

The implication of the explanatory material is that Northern Ireland will probably want to implement parallel policies in due course, although that would be a matter for the Northern Ireland Government. Nonetheless, a delayed implementation of UC in Northern Ireland means that there could be additional complications with the timing of any parallel provisions.

*We are also mindful that the impact of these Regulations will overlap with the implementation of Welfare Reform in Northern Ireland, more specifically Universal Credit. It is possible that households in Northern Ireland affected by these changes will find their Housing Benefit claim suspended, and instead of making a new Housing Benefit claim, will be 'migrated' into making an application for Universal Credit. This is particularly concerning, given that Universal Credit applications take 5 weeks to commence regular payment, resulting in the accumulation of further debt and rent arrears. The general impact of these changes, combined with the pending implementation of Welfare Reform in Northern Ireland, leads us to fear significantly increased rent arrears and rates of homelessness amongst affected claimants, with significant associated costs to the public purse.*

## **Monitoring and Evaluation**

The extent to which this change in policy is to be monitored is not clear. On the one hand the Equality Analysis for both HB and PC makes identical statements. It is there said:

*DWP is committed to monitoring the effects of its policies and we will use evidence from a number of sources on the experiences and outcomes of the protected groups.*

*We will use administrative datasets to monitor trends in the benefit caseloads for some of the protected groups and in the level and distribution of benefit entitlements. The administrative data will provide robust material for age and gender although not, as a rule, for the other protected groups.*

*We will use feedback from stakeholder groups to assess whether there are unintended consequences for the protected groups, and whether the policy itself results in adverse consequences for particular groups.*

*As part of our actions in the context of the data requirements under the Equality Act, we are looking across DWP activities to identify and address further gaps in data provision wherever reasonable.*

However in the explanatory memorandum presented to the Committee it is stated:

*We do not propose to undertake formal evaluation of this change. We will monitor the impact through our regular liaison with the Local Authority Associations and FED working group.*

Those statements appear to be at odds with each other. We would therefore seek clarification from the Department as to what is intended with regard to monitoring and evaluation. We stress this because, in the absence of relevant data which should inform the policy, it is all the more important to track what happens in practice, should the Government proceed with these proposals. We would also emphasise that any monitoring and evaluation exercise should be conducted with the explicit purpose of re-examining the policy in the light of findings and, if appropriate, introducing timely amendments to the legislation so that the policy is seen to work fairly and appropriately.

## **Communications and Guidance**

The fact that these changes are detailed and extensive presents the Department with the challenging task of communicating them to the target audience. It will cause immense personal difficulty and resentment if people go abroad without understanding the new rules and return to find themselves in substantial debt. Because the intention is to introduce these new rules from April 2016 we question whether that it is possible to communicate these changes effectively in the time available. Even though transitional rules will protect those abroad at the point at which the revised legislation takes effect, it will not help those who have already booked their flights from May onwards.

*We are pleased that the Government recognises that absences due to bereavement or medical treatment do need to be treated differently. However people will need clear information about this, and what evidence they will need to provide. For example, people will need to be aware that the time can be extended to 8 weeks if the visit is due to bereavement, and to know the specific circumstances set out in the regulations when this applies.*

**Age UK**

The same principle applies to producing revised guidance for decision-makers and those giving advice on the frontline in DWP and LA offices. The details of the changes are difficult to absorb and the straightened timescale within which such guidance is to be produced suggests that staff are likely to be insufficiently prepared to explain the new rules and their effects upon individuals.

### ***Recommendations***

The Committee's consultation has elicited some useful illustrations setting out how these proposals may impact certain groups. But in common with the Department, we have no firm evidence in terms of the degree or scale of impact.

The Committee is also conscious that there is a fine balance to be struck in designing a policy that does not adversely impact on vulnerable groups and leave them in financial hardship, while at the same time delivering fairness to those who are not in receipt of benefit. We also recognise the difficult choices the Government has to make in managing its expenditure and in ensuring that welfare budget is used fairly and to best effect.

However, it is clear to us that such decisions should be informed by a robust evidence base and we are disappointed that this has not been provided in support of these proposals.

**We therefore recommend that the Department takes urgent action to rectify that position and further consider whether it would be appropriate to amend the existing draft legislation to provide greater consistency, or to exempt or otherwise protect certain cases highlighted by this report.**

**Where the need for further protection is identified, the Committee recommends that the Department consider the following options:**

- (a) the introduction of further exemptions for specific groups;**
- (b) giving decision-makers discretion to extend the allowable period in individual cases where a test of good cause is satisfied;**
- (c) setting the period that PC and HB can be paid during temporary absences from Great Britain (GB) at 8 weeks rather than the 4 weeks that is proposed. This would be consistent with Working Tax Credits and, in our estimation, would capture the hardest cases that are likely to be impacted by these proposals.**

**The Committee would ask the Department to share the rationale for its decision on each of the groups highlighted in our report, and for sight of the evidence that informed these conclusions.**

P. N. C. Gray

Paul Gray  
Chair

## **APPENDIX 1**

### **Members of the Social Security Advisory Committee**

Paul Gray (Chair)  
John Andrews  
Rachael Badger  
Adele Baumgardt  
John Ditch  
Colin Godbold  
Chris Goulden  
Jim McCormick  
Gráinne McKeever  
Matthew Oakley  
Seyi Obakin  
Judith Paterson  
Nicola Smith

## APPENDIX 2

### Contributors to the SSAC Consultation

Age UK

Argyle Street Housing Co-operative, Cambridge

Chartered Institute of Public Finance and Accountancy (CIPFA)

Birmingham and Solihull Women's Aid

Citizens Advice, Northern Ireland

Citizens Advice, Scotland

Easton Raymond

Ghurkha Welfare Advice Centre

Hanover Housing Association

Housing Rights/Law Centre (NI) *[joint response]*

Peabody

Royal British Legion

Rushmoor Borough Council



Department  
for Work &  
Pensions

Housing Policy Division  
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Denise Whitehead  
Social Security Advisory Committee  
5<sup>th</sup> Floor  
Caxton House  
London  
SW1W 9NA

15 January 2016

Dear Denise,

### **DRAFT REGULATIONS FOR CONSIDERATION**

The purpose of this letter is to ask the Committee, in accordance with section 172 of the Social Security Administration Act 1992, to consider proposals to amend the following sets of Regulations:

- The Housing Benefit Regulations 2006 (2006/213); and
- The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (2006/214).
- the State Pension Credit Regulations (SI 2002/1792)

I attach an annex to this letter with a note that covers the proposed amendments. Also attached separately are the draft Regulations, Keeling version of the proposed changes and Equality Analysis (including family tests and child poverty tool) for both Housing Benefit and Pension Credit.

I hope this letter, together with the explanatory memorandum, will be helpful to the Committee in deciding whether these Regulations require formal reference.

We are currently consulting with the Local Authority Associations on the draft regulations, and are asking for any comments by 8<sup>th</sup> February.

Yours sincerely

Darran Nuttall  
Housing Policy Division

**The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016**

These amendments are intended to make changes to so that the period of allowable absence from outside Great Britain (GB) is reduced, generally from 13 weeks to 4 weeks.

It is a condition of entitlement to Housing Benefit (HB) and Pension Credit (PC) that claimants are in Great Britain.

HB has a general temporary absence rule meaning that HB can continue for a maximum of 13 weeks, where the period of absence does not, or is not expected to exceed 13 weeks, and the person intends returning to the dwelling and has not sub-let it.

If the period of absence is expected to last more than 13 weeks, HB stops immediately. Within this rule, HB does not distinguish between absences from home within GB or outside GB

PC has a parallel rule which however is specific to absences outside of GB. This allows entitlement to continue for absences outside of GB for up to 13 weeks where the absence is unlikely to exceed 52 weeks.

The policy, announced as part of the Chancellor's Autumn Statement, is to restrict temporary absences from GB in both benefits to four weeks.



**2016 No.**

**SOCIAL SECURITY**

**The Housing Benefit and State Pension Credit (Temporary  
Absence) (Amendment) Regulations 2016**

*Made* - - - - - \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force* - - - - - *1st April 2016*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(d), 130(1)(a), 130A(2), 137(1) and (2) and 175(3), (4) and (5) of the Social Security Contributions and Benefits Act 1992(a) and sections 1(5), 12(3) and 17(1) and (2) of the State Pension Credit Act 2002(b).

In accordance with section 172(1) of the Social Security Administration Act 1992(c), the Secretary of State has referred these Regulations to the Social Security Advisory Committee.

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

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

**Citation and commencement**

These Regulations may be cited as the Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016 and come into force on [1st April 2016].

**Amendments to the Housing Benefit Regulations 2006**

—(1) Regulation 7 of the Housing Benefit Regulations 2006 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)(e) is amended as follows.

In paragraph (11) after “residential accommodation” insert “in Great Britain”.

For paragraph (13) substitute—

- 
- (a) 1992 c.4. Section 175(3) is applied to provisions of the State Pension Credit Act 2002 (c.16) by section 19(1) of that Act.
  - (b) 2002 c.16.
  - (c) 1992 c.5.
  - (d) 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 (c.19).
  - (e) S.I. 2006/213. Regulation 7 was amended by S.I. 2013/443. There are other amendments to regulation 7 that are not relevant to this instrument.

“(13) Subject to paragraph (17), a person who is temporarily absent from a dwelling they occupy as their home within Great Britain shall be treated as occupying that dwelling as his home whilst he is temporarily absent therefrom, for a period not exceeding 13 weeks beginning with the first day of that absence from the home, provided that—

- (a) the person intends to return to occupy the dwelling as his home;
- (b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and
- (c) the period of absence from the home is unlikely to exceed 13 weeks.”.

After paragraph (13) insert—

“(13A) Subject to paragraphs (13B), (13D), (13E) and (17), a person who is temporarily absent from a dwelling he occupies as his home and is absent outside Great Britain shall be treated as occupying that dwelling as his home whilst he is temporarily absent, for a period not exceeding 4 weeks beginning with the first day of that absence from Great Britain, provided that—

- (a) the person intends to return to occupy the dwelling as his home;
- (b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and
- (c) the period of absence is unlikely to exceed 4 weeks.

(13B) A person who is temporarily absent from a dwelling he occupies as his home and is absent outside of Great Britain as a member of the armed forces away on operations, a mariner or a continental shelf worker shall be treated as occupying that dwelling as his home whilst he is temporarily absent, for a period not exceeding 26 weeks beginning with the first day of that absence from Great Britain, provided that—

- (a) the person intends to return to occupy the dwelling as his home;
- (b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and
- (c) the period of absence is unlikely to exceed 26 weeks.

(13C) This paragraph applies where—

- (a) a person is temporarily absent from Great Britain;
- (b) the temporary absence from Great Britain is in connection with the death of the—
  - (i) person’s partner or a child or young person for whom he or his partner is responsible;
  - (ii) person’s close relative;
  - (iii) close relative of the person’s partner; or
  - (iv) close relative of a child or young person for whom the person or their partner is responsible;
- (c) the person intends to return to occupy the dwelling as his home; and
- (d) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let.

(13D) A person to whom paragraph (13C) applies shall be treated as occupying a dwelling he is absent from as his home whilst he is temporarily absent for a period not exceeding 4 weeks beginning with the first day of that absence from Great Britain.

(13E) The period of absence in paragraph (13D) may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return to Great Britain within the first 4 weeks.”.

Paragraph (16) is amended as follows—

after “dwelling he normally occupies as his home” omit “(“absence”);

in sub-paragraph (c) for “the United Kingdom” in paragraphs (iii), (iv), (v) and (vii) substitute “Great Britain”;

for sub-paragraph (d) substitute—

“(d) in the case of—

- (i) an absence within Great Britain, the period of absence is unlikely to exceed or in exceptional circumstances is unlikely to substantially exceed, 52 weeks;
- (ii) an absence from Great Britain by a person to whom any of sub-paragraphs (c)(ii), (iii) or (vii) apply, the period of absence from Great Britain is unlikely to exceed or in exceptional circumstances is unlikely to substantially exceed, 26 weeks; or
- (iii) an absence from Great Britain to which paragraph (ii) does not apply, the period of absence from Great Britain is unlikely to exceed or in exceptional circumstances is unlikely to substantially exceed, 4 weeks.”.

For paragraph (17) substitute—

“(17) A person to whom paragraph (16) applies shall be treated as occupying the dwelling he normally occupies as his home—

- (a) with respect to absence within Great Britain, during a period of absence not exceeding 52 weeks beginning with the first day of the absence from the home;
- (b) with respect to absence outside Great Britain, in the case of a person to whom any of sub-paragraphs (c)(ii), (iii) or (vii) of paragraph (16) apply, during a period of absence not exceeding 26 weeks beginning with the first day of the absence from Great Britain; or
- (c) with respect to absence outside Great Britain, in the case of a person to whom sub-paragraph (b) does not apply, during a period of absence not exceeding 4 weeks beginning with the first day of the absence from Great Britain.”.

Paragraph (18) is amended as follows—

before the definition of “medically approved” insert—

““continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of the Petroleum Act 1998(a);

“designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964(b) as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

“mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel, where—

- (a) the employment in that capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;”;

after the definition of “patient” insert—

““prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;”.

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(a) 1998 c.17.  
(b) 1964 c.29.

## **Amendments to the Housing Benefit (persons who have attained the qualifying age for state pension credit) Regulations 2006**

—(2) Regulation 7 of the Housing Benefit (persons who have attained the qualifying age for state pension credit) Regulations 2006 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)(a) is amended as follows.

In paragraph (11) after “residential accommodation” insert “in Great Britain”.

For paragraph (13) substitute—

“(13) Subject to paragraph (17), a person who is temporarily absent from a dwelling they occupy as their home within Great Britain shall be treated as occupying that dwelling as his home whilst he is temporarily absent therefrom, for a period not exceeding 13 weeks beginning with the first day of that absence from the home, provided that—

- (a) the person intends to return to occupy the dwelling as his home;
- (b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and
- (c) the period of absence from the home is unlikely to exceed 13 weeks.”.

After paragraph (13) insert—

“(13A) Subject to paragraphs (13B), (13D), (13E) and (17), a person who is temporarily absent from a dwelling he occupies as his home and is absent outside Great Britain shall be treated as occupying that dwelling as his home whilst he is temporarily absent, for a period not exceeding 4 weeks beginning with the first day of that absence from Great Britain, provided that—

- (a) the person intends to return to occupy the dwelling as his home;
- (b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and
- (c) the period of absence is unlikely to exceed 4 weeks.

(13B) A person who is temporarily absent from a dwelling he occupies as his home and is absent outside of Great Britain as a member of the armed forces away on operations, a mariner or a continental shelf worker shall be treated as occupying that dwelling as his home whilst he is temporarily absent, for a period not exceeding 26 weeks beginning with the first day of that absence from Great Britain, provided that—

- (a) the person intends to return to occupy the dwelling as his home;
- (b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and
- (c) the period of absence is unlikely to exceed 26 weeks.

(13C) This paragraph applies where—

- (a) a person is temporarily absent from Great Britain;
- (b) the temporary absence from Great Britain is in connection with the death of the—
  - (i) person’s partner or a child or young person for whom he or his partner is responsible;
  - (ii) person’s close relative;
  - (iii) close relative of the person’s partner; or
  - (iv) close relative of a child or young person for whom the person or their partner is responsible;
- (c) the person intends to return to occupy the dwelling as his home; and
- (d) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let.

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(a) S.I. 2006/214. Regulation 7 was amended by S.I. 2013/443. There are other amendments to regulation 7 that are not relevant to this instrument.

(13D) A person to whom paragraph (13C) applies shall be treated as occupying a dwelling he is absent from as his home whilst he is temporarily absent for a period not exceeding 4 weeks beginning with the first day of that absence from Great Britain.

(13E) The period of absence in paragraph (13D) may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return to Great Britain within the first 4 weeks.”.

Paragraph (16) is amended as follows—

after “dwelling he normally occupies as his home” omit “(“absence”);

in sub-paragraph (c) for “the United Kingdom” in paragraphs (iii), (iv), (v) and (vii) substitute “Great Britain”;

for sub-paragraph (d) substitute—

“(d) in the case of—

- (i) an absence within Great Britain, the period of absence is unlikely to exceed or in exceptional circumstances is unlikely to substantially exceed, 52 weeks;
- (ii) an absence from Great Britain by a person to whom any of sub-paragraphs (c)(ii), (iii) or (vii) apply, the period of absence from Great Britain is unlikely to exceed or in exceptional circumstances is unlikely to substantially exceed, 26 weeks; or
- (iii) an absence from Great Britain to which paragraph (ii) does not apply, the period of absence from Great Britain is unlikely to exceed or in exceptional circumstances is unlikely to substantially exceed, 4 weeks.”.

For paragraph (17) substitute—

“(17) A person to whom paragraph (16) applies shall be treated as occupying the dwelling he normally occupies as his home—

- (a) with respect to absence within Great Britain, during a period of absence not exceeding 52 weeks beginning with the first day of the absence from the home;
- (b) with respect to absence outside Great Britain, in the case of a person to whom any of sub-paragraphs (c)(ii), (iii) or (vii) of paragraph (16) apply, during a period of absence not exceeding 26 weeks beginning with the first day of the absence from Great Britain; or
- (c) with respect to absence outside Great Britain, in the case of a person to whom sub-paragraph (b) does not apply, during a period of absence not exceeding 4 weeks beginning with the first day of the absence from Great Britain.”.

Paragraph (18) is amended as follows—

before the definition of “medically approved” insert—

““continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of the Petroleum Act 1998;

“designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964 as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

“mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel, where—

- (a) the employment in that capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;”;

after the definition of “patient” insert—

““prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;”.

### **Amendments to the State Pension Credit Regulations 2002**

—(3) The State Pension Credit Regulations 2002(a) are amended as follows.

For regulation 3 (persons temporarily absent from Great Britain) substitute—

#### **“Persons temporarily absent from Great Britain**

**3.—(1)** A claimant’s entitlement to state pension credit during periods of temporary absence from Great Britain is to continue if—

- (a) while absent from Great Britain the claimant continues to satisfy the other conditions of entitlement to state pension credit; and
- (b) either—
  - (i) the absence is not expected to exceed, and does not exceed, 4 weeks; or
  - (ii) paragraph (3) applies.

(2) The period of 4 weeks in paragraph (1)(b) may be extended by up to a further 4 weeks if the temporary absence is in connection with the death of—

- (a) the claimant’s partner or a child or qualifying young person normally living with the claimant; or
- (b) a close relative of the claimant, or of their partner or of a child or qualifying young person normally living with the claimant,

and the Secretary of State considers that it would be unreasonable to expect the claimant to return to Great Britain within the first 4 weeks.

(3) This paragraph applies where the absence is not expected to exceed, and does not exceed, 26 weeks and is solely in connection with—

- (a) the claimant undergoing—
  - (i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner; or
  - (ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the claimant had that illness or impairment before leaving Great Britain; or
- (b) the claimant accompanying their partner or a child or qualifying young person normally living with the claimant for treatment or convalescence or care as mentioned in sub-paragraph (a).

(4) In this regulation and in regulation 5—

“medically approved” means certified by a registered medical practitioner;

“qualified practitioner” means a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.”.

Omit regulation 3A (persons temporarily absent from Great Britain on 6th October 2008).

Omit regulation 4 (persons receiving treatment outside Great Britain).

Insert regulation 4A—

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(a) S.I. 2002/1792.

### “Meaning of “qualifying young person”

**4A.**—(1) a person who has reached the age of 16 but not the age of 20—

- (a) up to, but not including, the 1st September following their 16th Birthday; and
- (b) up to, but not including, the 1st September following their 19th Birthday, if they are enrolled on, or accepted for, approved training or a course of education—
  - (i) which is not a course of advanced education within the meaning of regulation 12(3) of the Universal Credit Regulations 2013(a);
  - (ii) which is provided at a school or college or provided elsewhere but approved by the Secretary of State for the purposes of regulation 5 of the Universal Credit Regulations 2013; and
  - (iii) where the average time spent during term time in receiving tuition, engaging in practical work or supervised study or taking examinations exceeds 12 hours per week.

(2) Where the young person is aged 19, they must have started the education or training or been enrolled on or accepted for it before reaching that age.

(3) The education or training referred to in paragraph (1) does not include education or training provided by means of employment.

(4) “Approved training” means training in pursuance of arrangements made under section 2(1) of the Employment and Training Act 1973(b) or section 2(3) of the Enterprise and New Towns (Scotland) Act 1990(c) which is approved by the Secretary of State for the purposes of regulation 5 of the Universal Credit Regulations 2013.

(5) A person who is receiving universal credit, a contributory employment and support allowance, a contribution-based jobseeker’s allowance, an income-related employment and support allowance, an income-based jobseeker’s allowance or income support is not a qualifying young person.”.

In regulation 5 (persons treated as being or not being members of the same household)—

in paragraph (1)(d) for “temporary” substitute “temporarily”;

in paragraph (1)(f) for “13 weeks” substitute “4 weeks where the absence is not expected to exceed, and does not exceed, 4 weeks, unless this period is extended in accordance with paragraphs (1A) or (1B)”;

for paragraph (1A) substitute—

“(1A) The period of 4 weeks specified in paragraph (1)(f) may be extended by up to a further 4 weeks if the absence from Great Britain is in connection with the death of—

- (a) a child or qualifying young person normally living with the person; or
- (b) a close relative of the person, or of their partner or of a child or qualifying young person normally living with the person,

and the Secretary of State considers that it would be unreasonable to expect the person to return to Great Britain within the first 4 weeks.

(1B) The period of 4 weeks specified in paragraph (1)(f) may be extended up to 26 weeks where the absence is not expected to exceed, and does not exceed, 26 weeks and is solely in connection with—

- (a) the person undergoing—
  - (i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner; or

---

(a) S.I. 2013/376.  
(b) 1973 c.50.  
(c) 1990 c.35.

- (ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the person had that illness or impairment before leaving Great Britain; or
- (b) the person accompanying their partner or a child or qualifying young person normally living with the person for treatment or convalescence or care as mentioned in sub-paragraph (a)."

In paragraph 2(2)(f) of Schedule I (circumstances in which persons are treated as being or not being severely disabled) after "qualifying young person" insert "within the meaning of regulation 4A" and for "for the purposes of Part IX of the 1992 Act" substitute "as defined in section 40 of the 2012 Act".

In paragraph 1(8) of Schedule III, after "In regulations" insert "3,".

In Schedule V (income from capital)—

in paragraph 6(2)(c) after "qualifying young person" insert "within the meaning of regulation 4A" and for "for the purposes of Part IX of the 1992 Act" substitute "as defined in section 40 of the 2012 Act";

in paragraph 15(8) in the definition of "child" after "qualifying young person" insert "within the meaning of regulation 4A" and for "for the purposes of Part IX of the Contributions and Benefits Act (child benefit)" substitute "as defined in section 40 of the 2012 Act".

In paragraph 1(2)(b) of Schedule VI (sums disregarded from claimant's earnings), after "qualifying young person" insert "within the meaning of regulation 4A" and for "for the purposes of Part IX of the 1992 Act" substitute "as defined in section 40 of the 2012 Act".

### **Transitional provision**

—(4) Regulations 2 and 3 shall not apply in respect of a person who is temporarily absent from Great Britain on [1st April 2016] until that person returns to Great Britain unless the person is—

- a member of the armed forces away on operations;
- a continental shelf worker; or
- a mariner.

Regulation 4 shall not apply in respect of a person who is temporarily absent from Great Britain on [1st April 2016] until that person returns to Great Britain.

In this regulation—

"continental shelf worker" means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of the Petroleum Act 1998;

"designated area" means any area designated by Order in Council under the Continental Shelf Act 1964 as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

"mariner" means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel, where—

the employment in that capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and

the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;

"member of the armed forces away on operations" means a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006)(a) who is absent, while on operations, from the dwelling usually occupied as their home; and

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(a) 2006 c.52.



“prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998.”.

*Name*  
Minister of State

Date Department for Work and Pensions

### **EXPLANATORY NOTE**

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

These Regulations amend regulation 7 of the Housing Benefit Regulations 2006 (S.I. 2006/213) (“the Housing Benefit Regulations”), regulation 7 of the Housing Benefit (persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214) and the State Pension Credit Regulations 2002 (S.I. 2002/1792) (“the State Pension Credit Regulations”).

Regulation 7(11) of the Housing Benefit Regulations provides that a person who enters residential accommodation on a trial basis for the purpose of ascertaining whether the accommodation satisfies his needs, can receive housing benefit in respect of his former dwelling for up to 13 weeks. Regulation 2(2) of these Regulations amends regulation 7(11) of the Housing Benefit Regulations to provide that that regulation will only apply where the person enters residential accommodation in Great Britain.

Regulation 7(13) of the Housing Benefit Regulations provides that a person can be treated as occupying a dwelling which they are temporarily absent from as their home, for a period not exceeding 13 weeks, provided that: the person intends to return to occupy the dwelling, the dwelling is not let or, as the case may be, sub-let, and the period of absence is unlikely to exceed 13 weeks. Regulation 7(13) currently makes no distinction between absences within and outside of Great Britain. Regulation 2(3) of these Regulations amends regulation 7(13) so that that regulation only applies to people who are temporarily absent from their home and who are absent within Great Britain.

Regulation 2(4) inserts new provisions into regulation 7 of the Housing Benefit Regulations which reduce the period that a person will be treated as occupying a dwelling from which they are temporarily absent as their home to 4 weeks when the person is absent from Great Britain beginning on the first day of their absence from Great Britain. However, if the absence from Great Britain is in connection with the death of: a partner, child or young person for whom they or their partner are responsible, their or their partner’s close relative, or a close relative of a child or young person for whom they or their partner are responsible, then the period of absence may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return within the first 4 weeks.

Regulation 2(4) further provides that if the person is a member of the armed forces away on operations, a mariner or a continental shelf worker the person will be treated as occupying the dwelling as their home, whilst they are temporarily absent, for up to 26 weeks if they are absent from Great Britain beginning on the first day of their absence from Great Britain.

Regulation 2(5) of these Regulations amends regulation 7(16) of the Housing Benefit Regulations in two ways. Firstly, it substitutes “Great Britain” for “the United Kingdom” in paragraphs (iii), (iv), (v) and (vii). Secondly, it amends paragraph (16)(d) to reduce the period that the absence is unlikely to exceed where the person is absent from Great Britain, to 26 weeks if the person is a person to whom any of sub-paragraphs (c)(ii), (iii) or (vii) apply or 4 weeks in any other case, beginning on the first day of their absence from Great Britain. The period remains at 52 weeks where the person is absent from the dwelling and remains within Great Britain.

Regulation 2(6) of these Regulations amends regulation 7(17) of the Housing Benefit Regulations to provide that where a person to whom regulation 7(16) applies is absent from Great Britain then they will be treated as occupying the dwelling as their home for up to 4 weeks unless they are a person to whom any of paragraphs (16)(c)(ii), (iii) and (vii) of regulation 7 of the Housing Benefit Regulations applies, in which case they can be treated as occupying the dwelling for up to 26 weeks beginning on the first day of their absence from Great Britain. The period remains at 52 weeks where the person is absent from the dwelling and remains within Great Britain.

Regulation 2(7) of these Regulations makes amendments to regulation 7 which are consequential to these changes.

Regulation 3 makes similar amendments to the Housing Benefit (persons who have attained the qualifying age for state pension credit) Regulations 2006.

Regulation 3 of the State Pension Credit Regulations currently allows for a claimant's entitlement to State Pension Credit to continue where the claimant is outside of Great Britain for up to 13 weeks, the period of absence is unlikely to exceed 52 weeks and the claimant continues to satisfy the other conditions of entitlement during their absence. Regulation 4(2) inserts new regulation 3 into the State Pension Credit Regulations which replaces this 13 week period with a 4 week period providing that the absence is not expected to exceed, and does not exceed, 4 weeks. This 4 week period can be extended by a further 4 weeks where the absence is in connection with the death of the claimant's partner, or a child or qualifying young person normally living with the claimant, or the death of a close relative of one of these. New regulation 3(3) allows for a claim to continue for up to 26 weeks where the claimant is undergoing medical treatment or is accompanying a partner or a child or qualifying young person normally living with the claimant for medical treatment.

Regulation 4(5) inserts a definition of "qualifying young person" into the State Pension Credit Regulations.

Regulation 5 of the State Pension Credit Regulations currently allows for a claimant's partner to continue to be treated as being a member of the claimant's household (and therefore for a claimant to claim State Pension Credit at the couple's rate) for up to 13 weeks. Regulation 4(6) amends this so that the claimant's partner is subject to the same rules on temporary absence as the claimant.

Regulation 4(7), 4(9) and (10) makes changes to certain Schedules to the State Pension Credit Regulations so that the definitions of "qualifying young person" and "child" cross-refer to regulation 4A of those Regulations and section 40 of the Welfare Reform Act 2012 (c.12) respectively.

Regulation 4(8) applies the provisions relating to polygamous marriages to regulation 3 of the State Pension Credit Regulations.

Regulation 5 makes transitional provision such that the amendments in Regulations 2 and 3 do not apply in respect of a person who is temporarily absent from Great Britain on 1 April 2016 until they return to Great Britain unless the person is a member of the armed forces away on operations, a continental shelf worker or a mariner. The amendments in regulation 4 do not apply to a person who is temporarily absent from Great Britain on 1 April 2016 until the person returns to Great Britain.

[An impact assessment has not been produced for this instrument as it has no new impact on business or civil society organisations.]

## Keeling Schedule – Housing Benefit Regulations 2006

Current Version	Proposed New Version
<b>Regulation 7</b>	<b>Regulation 7</b>
<p>7.— Circumstances in which a person is or is not to be treated as occupying a dwelling as his home</p> <p>....</p> <p>(11) This paragraph shall apply to a person who enters residential accommodation —</p> <p style="padding-left: 40px;">(a) for the purpose of ascertaining whether the accommodation suits his needs; and</p> <p style="padding-left: 40px;">(b) with the intention of returning to the dwelling which is normally occupied by him as his home should, in the event, the residential accommodation prove not to suit his needs; and</p> <p style="padding-left: 40px;">(c) while the part of the dwelling which is normally occupied by him as his home is not let, or as the case may be, sublet.</p> <p>(12) A person to whom paragraph (11) applies shall be treated as if he is occupying the dwelling he normally occupies as his home for a period not exceeding, subject to an overall limit of 52 weeks on the absence from that home, 13 weeks beginning from the first day he enters a residential accommodation.</p> <p>(13) Subject to paragraph (17) a person shall be treated as occupying a dwelling as his home while he is temporarily absent therefrom for a period not exceeding 13 weeks beginning from the first day of that absence from the home only if—</p> <p style="padding-left: 40px;">(a) he intends to return to occupy the dwelling as his home; and</p> <p style="padding-left: 40px;">(b) the part of the dwelling normally occupied by him has not been let or, as the case may be, sub-let; and</p> <p style="padding-left: 40px;">(c) the period of absence is unlikely to exceed 13 weeks.</p>	<p>7.— Circumstances in which a person is or is not to be treated as occupying a dwelling as his home</p> <p>....</p> <p>(11) This paragraph shall apply to a person who enters residential accommodation <u>in Great Britain</u> —</p> <p style="padding-left: 40px;">(a) for the purpose of ascertaining whether the accommodation suits his needs; and</p> <p style="padding-left: 40px;">(b) with the intention of returning to the dwelling which is normally occupied by him as his home should, in the event, the residential accommodation prove not to suit his needs; and</p> <p style="padding-left: 40px;">(c) while the part of the dwelling which is normally occupied by him as his home is not let, or as the case may be, sublet.</p> <p>(12) A person to whom paragraph (11) applies shall be treated as if he is occupying the dwelling he normally occupies as his home for a period not exceeding, subject to an overall limit of 52 weeks on the absence from that home, 13 weeks beginning from the first day he enters a residential accommodation.</p> <p><u>(13) Subject to paragraph (17), a person who is temporarily absent from a dwelling they occupy as their home within Great Britain, shall be treated as occupying that dwelling as his home whilst he is temporarily absent therefrom, for a period not exceeding 13 weeks beginning with the first day of that absence from the home, provided that —</u></p> <p style="padding-left: 40px;"><u>(a) the person intends to return to occupy the dwelling as his home;</u></p> <p style="padding-left: 40px;"><u>(b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and</u></p> <p style="padding-left: 40px;"><u>(c) the period of absence is unlikely to exceed 13 weeks.</u></p> <p><u>(13A) Subject to paragraphs (13B), (13D), (13E) and (17), a person who is temporarily absent from a dwelling he occupies as his home and is absent outside of Great Britain shall be treated as</u></p>

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	<p><u>occupying that dwelling as his home whilst he is temporarily absent, for a period not exceeding 4 weeks beginning with the first day of that absence from Great Britain, provided that —</u></p> <p>(a) <u>the person intends to return to occupy the dwelling as his home;</u></p> <p>(b) <u>the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and</u></p> <p>(c) <u>the period of absence from the home is unlikely to exceed 4 weeks.</u></p> <p><u>(13B) A person who is temporarily absent from a dwelling he occupies as his home and is absent outside of Great Britain as a member of the armed forces away on operations, a mariner or a continental shelf worker shall be treated as occupying that dwelling as his home whilst he is temporarily absent, for a period not exceeding 26 weeks, beginning with the first day of that absence from Great Britain, provided that—</u></p> <p>(a) <u>the person intends to return to occupy the dwelling as his home;</u></p> <p>(b) <u>the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and</u></p> <p>(c) <u>the period of absence from the home is unlikely to exceed 26 weeks.</u></p> <p><u>(13C) This paragraph applies where—</u></p> <p>(a) <u>a person is temporarily absent from Great Britain;</u></p> <p>(b) <u>the temporary absence from Great Britain is in connection with the death of the—</u></p> <p>(i) <u>person’s partner or a child or young person for whom he or his partner is responsible;</u></p> <p>(ii) <u>person’s close relative;</u></p> <p>(iii) <u>close relative of the person’s partner; or</u></p> <p>(iv) <u>close relative of a child or young person for whom the</u></p>

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<p>(14) This paragraph applies to a person who is—</p> <p>(a) detained in custody pending sentence upon conviction or under a sentence imposed by a court, other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995; and</p> <p>(b) on temporary release from such detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989.</p> <p>(15) Where paragraph (14) applies to a person, then, for any day when he is on temporary release—</p> <p>(a) if such temporary release was immediately preceded by a period of temporary absence under paragraph (13) or (16), he shall be treated as if he continues to be absent from the dwelling, despite any occupation of the dwelling;</p> <p>(b) for the purposes of paragraph (16)(c)(i), he shall be treated as if he remains in detention; and</p> <p>(c) if he does not fall within subparagraph (a), he shall be treated as if he does not occupy his dwelling as his home despite any such occupation of the dwelling.</p> <p>(16) This paragraph shall apply to a person who is temporarily absent from the dwelling he normally occupies as his home (“absence”), if—</p>	<p><u>person or their partner is responsible;</u></p> <p><u>(c) the person intends to return to occupy the dwelling as his home; and</u></p> <p><u>(d) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let.</u></p> <p><u>(13D) A person to whom paragraph (13C) applies shall be treated as occupying a dwelling he is absent from as his home whilst he is temporarily absent for a period not exceeding 4 weeks beginning with the first day of that absence from Great Britain.</u></p> <p><u>(13E) The period of absence in paragraph (13D) may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return to Great Britain within the first 4 weeks.</u></p> <p>(14) This paragraph applies to a person who is—</p> <p>(a) detained in custody pending sentence upon conviction or under a sentence imposed by a court, other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995; and</p> <p>(b) on temporary release from such detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989.</p> <p>(15) Where paragraph (14) applies to a person, then, for any day when he is on temporary release—</p> <p>(a) if such temporary release was immediately preceded by a period of temporary absence under paragraph (13) or (16), he shall be treated as if he continues to be absent from the dwelling, despite any occupation of the dwelling;</p> <p>(b) for the purposes of paragraph (16)(c)(i), he shall be treated as if he remains in detention; and</p>

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<p>(a) he intends to return to occupy the dwelling as his home; and</p> <p>(b) while the part of the dwelling which is normally occupied by him has not been let, or as the case may be, sublet; and</p> <p>(c) he is—</p> <p style="padding-left: 40px;">(i) a person to whom paragraph (16A) applies;</p> <p style="padding-left: 40px;">(ii) resident in a hospital or similar institution as a patient; or</p> <p style="padding-left: 40px;">(iii) undergoing, or as the case may be, his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation; or</p> <p style="padding-left: 40px;">(iv) following, in the United Kingdom or elsewhere, a training course; or</p> <p style="padding-left: 40px;">(v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere; or</p> <p style="padding-left: 40px;">(vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment; or</p> <p style="padding-left: 40px;">(vii) a person who is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation; or</p> <p style="padding-left: 40px;">(viii) a student to whom paragraph (3) or (6)(b) does not apply; or</p>	<p>(c) if he does not fall within subparagraph (a), he shall be treated as if he does not occupy his dwelling as his home despite any such occupation of the dwelling.</p> <p><u>(16) This paragraph shall apply to a person who is temporarily absent from the dwelling he normally occupies as his home (“absence”), if—</u></p> <p>(a) he intends to return to occupy the dwelling as his home; and</p> <p>(b) while the part of the dwelling which is normally occupied by him has not been let, or as the case may be, sublet; and</p> <p>(c) he is—</p> <p style="padding-left: 40px;">(i) a person to whom paragraph (16A) applies;</p> <p style="padding-left: 40px;">(ii) resident in a hospital or similar institution as a patient; or</p> <p style="padding-left: 40px;">(iii) undergoing, or as the case may be, his partner or his dependent child is undergoing, in <del>the United Kingdom</del> <u>Great Britain</u> or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation; or</p> <p style="padding-left: 40px;">(iv) following, in <del>the United Kingdom</del> <u>Great Britain</u> or elsewhere, a training course; or</p> <p style="padding-left: 40px;">(v) undertaking medically approved care of a person residing in <del>the United Kingdom</del> <u>Great Britain</u> or elsewhere; or</p> <p style="padding-left: 40px;">(vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment; or</p>

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<p>(ix) a person who is receiving care provided in residential accommodation other than a person to whom paragraph (11) applies; or</p> <p>(x) a person who has left the dwelling he occupies as his home through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned, and to whom paragraph (6)(a) does not apply; and</p> <p>(d) the period of his absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.</p> <p>(16A) This paragraph applies to a person (“P”) who is—</p> <p>(a) detained in custody on remand pending trial;</p> <p>(b) detained pending sentence upon conviction; or</p> <p>(c) as a condition of bail required to reside—</p> <p>(i) in a dwelling, other than a dwelling P occupies as P's home; or</p>	<p>(vii) a person who is, in <del>the United Kingdom</del> <u>Great Britain</u> or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation; or</p> <p>(viii) a student to whom paragraph (3) or (6)(b) does not apply; or</p> <p>(ix) a person who is receiving care provided in residential accommodation other than a person to whom paragraph (11) applies; or</p> <p>(x) a person who has left the dwelling he occupies as his home through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned, and to whom paragraph (6)(a) does not apply; and</p> <p><u>(d) in the case of-</u></p> <p><u>(i) _____ an absence within Great Britain, the period of absence is unlikely to exceed or, in exceptional circumstances is unlikely to substantially exceed, 52 weeks;</u></p> <p><u>(ii) _____ an absence from Great Britain and a person to whom any of sub-paragraphs (c)(ii), (iii) or (vii) apply, the period of absence from Great Britain is unlikely to exceed or in exceptional circumstances is unlikely to substantially exceed, 26 weeks; or</u></p> <p><u>(iii) an absence from Great Britain to which paragraph (ii) does not apply, the period of absence from Great Britain is unlikely to exceed or in exceptional circumstances is unlikely to substantially exceed, 4 weeks.</u></p> <p>(16A) This paragraph applies to a person (“P”)</p>

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<p>(ii) in premises approved under section 13 of the Offender Management Act 2007, and who is not also detained in custody following sentence upon conviction.</p> <p>(17) A person to whom paragraph (16) applies shall be treated as occupying the dwelling he normally occupies at his home during any period of absence not exceeding 52 weeks beginning from the first day of that absence.</p> <p>(18) In this regulation—</p> <p>“medically approved” means certified by a</p>	<p>who is—</p> <p>(a) detained in custody on remand pending trial;</p> <p>(b) detained pending sentence upon conviction; or</p> <p>(c) as a condition of bail required to reside—</p> <p>(i) in a dwelling, other than a dwelling P occupies as P's home; or</p> <p>(ii) in premises approved under section 13 of the Offender Management Act 2007, and who is not also detained in custody following sentence upon conviction.</p> <p><u>(17) A person to whom paragraph (16) applies shall be treated as occupying the dwelling he normally occupies as his home —</u></p> <p><u>(a) with respect to absence within Great Britain, during a period of absence not exceeding 52 weeks beginning with the first day of the absence from the home;</u></p> <p><u>(b) with respect to absence outside Great Britain, in the case of a person to whom any of sub-paragraphs (c)(ii), (iii) or (vii) of paragraph (16) apply, during a period of absence not exceeding 26 weeks beginning with the first day of the absence from Great Britain; or</u></p> <p><u>(c) with respect to absence outside Great Britain, in the case of a person to whom sub-paragraph (b) does not apply, during a period of absence not exceeding 4 weeks beginning with the first day of the absence from Great Britain.</u></p> <p>(18) In this regulation—</p> <p><u>“continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of the Petroleum Act 1998;</u></p> <p><u>“designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964 as an area within which the rights of the United</u></p>



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<p>medical practitioner;</p> <p>“patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;</p> <p>“residential accommodation” means accommodation which is provided in—</p> <p>(a) a care home;  (b) an independent hospital;  (c) an Abbeyfield Home; or  (d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;</p> <p>“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.</p>	<p><u>Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;</u></p> <p><u>“mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel, where—</u></p> <p>(a) <u>the employment in that capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and</u></p> <p>(b) <u>the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;</u></p> <p>“medically approved” means certified by a medical practitioner;</p> <p>“patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;</p> <p><u>“prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;</u></p> <p>“residential accommodation” means accommodation which is provided in—</p> <p>(a) a care home;  (b) an independent hospital;  (c) an Abbeyfield Home; or  (d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;</p> <p>“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.</p>

**Keeling Schedule – Housing Benefit (Persons who have reached the qualifying age for state pension credit Regulations 2006)**

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<b>Regulation 7</b>	<b>Regulation 7</b>
<p>7.— Circumstances in which a person is or is not to be treated as occupying a dwelling as his home</p> <p>....</p> <p>(11) This paragraph shall apply to a person who enters residential accommodation —</p> <p style="padding-left: 40px;">(a) for the purpose of ascertaining whether the accommodation suits his needs; and</p> <p style="padding-left: 40px;">(b) with the intention of returning to the dwelling which is normally occupied by him as his home should, in the event, the residential accommodation prove not to suit his needs; and</p> <p style="padding-left: 40px;">(c) while the part of the dwelling which is normally occupied by him as his home is not let, or as the case may be, sublet.</p> <p>(12) A person to whom paragraph (11) applies shall be treated as if he is occupying the dwelling he normally occupies as his home for a period not exceeding, subject to an overall limit of 52 weeks on the absence from that home, 13 weeks beginning from the first day he enters a residential accommodation.</p> <p>(13) Subject to paragraph (17) a person shall be treated as occupying a dwelling as his home while he is temporarily absent therefrom for a period not exceeding 13 weeks beginning from the first day of that absence from the home only if—</p> <p style="padding-left: 40px;">(a) he intends to return to occupy the dwelling as his home; and</p> <p style="padding-left: 40px;">(b) the part of the dwelling normally occupied by him has not been let or, as the case may be, sub-let; and</p> <p style="padding-left: 40px;">(c) the period of absence is unlikely to exceed 13 weeks.</p>	<p>7.— Circumstances in which a person is or is not to be treated as occupying a dwelling as his home</p> <p>....</p> <p><u>(11) This paragraph shall apply to a person who enters residential accommodation in Great Britain</u></p> <p style="padding-left: 40px;">(a) for the purpose of ascertaining whether the accommodation suits his needs; and</p> <p style="padding-left: 40px;">(b) with the intention of returning to the dwelling which is normally occupied by him as his home should, in the event, the residential accommodation prove not to suit his needs; and</p> <p style="padding-left: 40px;">(c) while the part of the dwelling which is normally occupied by him as his home is not let, or as the case may be, sublet.</p> <p>(12) A person to whom paragraph (11) applies shall be treated as if he is occupying the dwelling he normally occupies as his home for a period not exceeding, subject to an overall limit of 52 weeks on the absence from that home, 13 weeks beginning from the first day he enters a residential accommodation.</p> <p><u>(13) Subject to paragraph (17), a person who is temporarily absent from a dwelling they occupy as their home within Great Britain, shall be treated as occupying that dwelling as his home whilst he is temporarily absent therefrom, for a period not exceeding 13 weeks beginning with the first day of that absence from the home, provided that—</u></p> <p style="padding-left: 40px;"><u>(a) the person intends to return to occupy the dwelling as his home;</u></p> <p style="padding-left: 40px;"><u>(b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and</u></p> <p style="padding-left: 40px;"><u>(c) the period of absence from the</u></p>

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	<p style="text-align: center;"><u>home is unlikely to exceed 13 weeks.</u></p> <p><u>(13A) Subject to paragraphs (13B), (13D), (13E) and (17), a person who is temporarily absent from a dwelling he occupies as his home and is absent outside Great Britain shall be treated as occupying that dwelling as his home whilst he is temporarily absent, for a period not exceeding 4 weeks beginning with the first day of that absence from Great Britain, provided that—</u></p> <ul style="list-style-type: none"> <li><u>(a) the person intends to return to occupy the dwelling as his home;</u></li> <li><u>(b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and</u></li> <li><u>(c) the period of absence is unlikely to exceed 4 weeks.</u></li> </ul> <p><u>(13B) A person who is temporarily absent from a dwelling he occupies as his home and is absent outside of Great Britain as a member of the armed forces away on operations, a mariner or a continental shelf worker shall be treated as occupying that dwelling as his home whilst he is temporarily absent, for a period not exceeding 26 weeks, beginning with the first day of that absence from Great Britain, provided that—</u></p> <ul style="list-style-type: none"> <li><u>(a) the person intends to return to occupy the dwelling as his home;</u></li> <li><u>(b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and</u></li> <li><u>(c) the period of absence is unlikely to exceed 26 weeks.</u></li> </ul> <p><u>(13C) This paragraph applies where—</u></p> <ul style="list-style-type: none"> <li><u>(a) a person is temporarily absent from Great Britain;</u></li> <li><u>(b) the temporary absence from Great Britain is in connection with the death of the—</u> <ul style="list-style-type: none"> <li><u>(i) person's partner or a child or young person for whom he or his partner is responsible;</u></li> <li><u>(ii) person's close relative;</u></li> <li><u>(iii) close relative of the person's partner; or</u></li> <li><u>(iv) close relative of a child or young person for whom the person or their partner is responsible;</u></li> </ul> </li> </ul>

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<p>(14) This paragraph applies to a person who is—</p> <p>(a) detained in custody pending sentence upon conviction or under a sentence imposed by a court, other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995; and</p> <p>(b) on temporary release from such detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989.</p> <p>(15) Where paragraph (14) applies to a person, then, for any day when he is on temporary release—</p> <p>(a) if such temporary release was immediately preceded by a period of temporary absence under paragraph (13) or (16), he shall be treated as if he continues to be absent from the dwelling, despite any occupation of the dwelling;</p> <p>(b) for the purposes of paragraph (16)(c)(i), he shall be treated as if he remains in detention; and</p> <p>(c) if he does not fall within sub-paragraph (a), he shall be treated as if he does not occupy his dwelling as his home despite any such occupation of the dwelling.</p> <p>(16) This paragraph shall apply to a person who is temporarily absent from the dwelling he normally occupies as his home (“absence”), if—</p> <p>(a) he intends to return to occupy the dwelling as his home; and</p>	<p>(c) <u>the person intends to return to occupy the dwelling as his home; and</u></p> <p>(d) <u>the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let.</u></p> <p><u>(13D) A person to whom paragraph (13C) applies shall be treated as occupying a dwelling he is absent from as his home whilst he is temporarily absent for a period not exceeding 4 weeks beginning with the first day of that absence.</u></p> <p><u>(13E) The period of absence in paragraph (13D) may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return to Great Britain within the first 4 weeks.</u></p> <p>(14) This paragraph applies to a person who is—</p> <p>(a) detained in custody pending sentence upon conviction or under a sentence imposed by a court, other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995; and</p> <p>(b) on temporary release from such detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989.</p> <p>(15) Where paragraph (14) applies to a person, then, for any day when he is on temporary release—</p> <p>(a) if such temporary release was immediately preceded by a period of temporary absence under paragraph (13) or (16), he shall be treated as if he continues to be absent from the dwelling, despite any occupation of the dwelling;</p> <p>(b) for the purposes of paragraph (16)(c)(i), he shall be treated as if he remains in detention; and</p> <p>(c) if he does not fall within sub-</p>

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<p>(b) while the part of the dwelling which is normally occupied by him has not been let, or as the case may be, sublet; and</p> <p>(c) he is—</p> <p>(i) a person to whom paragraph (16A) applies;</p> <p>(ii) resident in a hospital or similar institution as a patient; or</p> <p>(iii) undergoing, or as the case may be, his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation; or</p> <p>(iv) following, in the United Kingdom or elsewhere, a training course; or</p> <p>(v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere; or</p> <p>(vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment; or</p> <p>(vii) a person who is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation; or</p> <p>(viii) a student to whom paragraph (3) or (6)(b) does not apply; or</p> <p>(ix) a person who is receiving care provided in residential accommodation other than a person to whom paragraph (11) applies; or</p>	<p>paragraph (a), he shall be treated as if he does not occupy his dwelling as his home despite any such occupation of the dwelling.</p> <p><u>(16) This paragraph shall apply to a person who is temporarily absent from the dwelling he normally occupies as his home, if—</u></p> <p>(a) he intends to return to occupy the dwelling as his home; and</p> <p>(b) while the part of the dwelling which is normally occupied by him has not been let, or as the case may be, sublet; and</p> <p>(c) he is—</p> <p>(i) a person to whom paragraph (16A) applies;</p> <p>(ii) resident in a hospital or similar institution as a patient; or</p> <p>(iii) undergoing, or as the case may be, his partner or his dependent child is undergoing, in <del>the United Kingdom</del> <u>Great Britain</u> or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation; or</p> <p>(iv) following, in <del>the United Kingdom</del> <u>Great Britain</u> or elsewhere, a training course; or</p> <p>(v) undertaking medically approved care of a person residing in <del>the United Kingdom</del> <u>Great Britain</u> or elsewhere; or</p> <p>(vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment; or</p> <p>(vii) a person who is, in <del>the United Kingdom</del> <u>Great Britain</u></p>

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<p>(x) a person who has left the dwelling he occupies as his home through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned, and to whom paragraph (6)(a) does not apply; and</p> <p>(d) the period of his absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.</p> <p>(16A) This paragraph applies to a person (“P”) who is—</p> <p>(a) detained in custody on remand pending trial;</p> <p>(b) detained pending sentence upon conviction; or</p> <p>(c) as a condition of bail required to reside—</p> <p>(i) in a dwelling, other than a dwelling P occupies as P's home; or</p> <p>(ii) in premises approved under section 13 of the Offender Management Act 2007, and who is not also detained in custody following sentence upon conviction.</p> <p>(17) A person to whom paragraph (16) applies</p>	<p>or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation; or</p> <p>(viii) a student to whom paragraph (3) or (6)(b) does not apply; or</p> <p>(ix) a person who is receiving care provided in residential accommodation other than a person to whom paragraph (11) applies; or</p> <p>(x) a person who has left the dwelling he occupies as his home through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned, and to whom paragraph (6)(a) does not apply; and</p> <p><u>(d) in the case of—</u></p> <p><u>(i) an absence from Great Britain, the period of absence is unlikely to exceed, or, in exceptional circumstances is unlikely to substantially exceed 52 weeks;</u></p> <p><u>(ii) an absence from Great Britain and a person to whom any of subparagraphs (c)(ii), (iii) or (vii) apply, the period of absence from Great Britain is unlikely to exceed or, in exceptional circumstances is unlikely to substantially exceed 26 weeks; or</u></p> <p><u>(iii) an absence from Great Britain to which paragraph (ii) does not apply, the period of absence from Great Britain is unlikely to exceed or, in exceptional circumstances is unlikely to substantially exceed, 4 weeks.</u></p> <p>(16A) This paragraph applies to a person (“P”) who is—</p> <p>(a) detained in custody on remand pending trial;</p> <p>(b) detained pending sentence upon</p>

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<p>shall be treated as occupying the dwelling he normally occupies at his home during any period of absence not exceeding 52 weeks beginning from the first day of that absence.</p> <p>(18) In this regulation—</p> <p>“medically approved” means certified by a medical practitioner;</p> <p>“patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;</p>	<p>conviction; or</p> <p>(c) as a condition of bail required to reside—</p> <p>(i) in a dwelling, other than a dwelling P occupies as P's home; or</p> <p>(ii) in premises approved under section 13 of the Offender Management Act 2007, and who is not also detained in custody following sentence upon conviction.</p> <p><u>(17) A person to whom paragraph (16) applies shall be treated as occupying the dwelling he normally occupies as his home during any period of absence not exceeding—</u></p> <p>(a) <u>52 weeks, where the person remains within Great Britain for any part of that period, beginning with the first day of the absence from the home;</u></p> <p>(b) <u>26 weeks, where the person leaves Great Britain and is a person within the meaning of paragraphs (16)(c)(ii), (iii) or (vii), beginning with the first day of the absence from Great Britain; or</u></p> <p>(c) <u>4 weeks, where the person leaves Great Britain, beginning with the first day of the absence from Great Britain, in any other case.</u></p> <p>(18) In this regulation—</p> <p><u>“continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of the Petroleum Act 1998;</u></p> <p><u>“designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964 as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;</u></p> <p><u>“mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel, where—</u></p>

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<p>“residential accommodation” means accommodation which is provided in—</p> <ul style="list-style-type: none"> <li>(a) a care home;</li> <li>(b) an independent hospital;</li> <li>(c) an Abbeyfield Home; or</li> <li>(d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;</li> </ul> <p>“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.</p>	<p><u>(a) the employment in that capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and</u></p> <p><u>(b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;</u></p> <p>“medically approved” means certified by a medical practitioner;</p> <p>“patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;</p> <p><u>“prescribed area” means any area over which Norway or any member state (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;</u></p> <p>“residential accommodation” means accommodation which is provided in—</p> <ul style="list-style-type: none"> <li>(a) a care home;</li> <li>(b) an independent hospital;</li> <li>(c) an Abbeyfield Home; or</li> <li>(d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;</li> </ul> <p>“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.</p>



**Keeling Schedule – State Pension Credit Regulations 2002**

<b>Current Version</b>	<b>Proposed New Version</b>
<b>Regulation 3 of the State Pension Credit Regulations 2002</b>	<b>Regulation 3 of the State Pension Credit Regulations 2002</b>
<p><b>Persons temporarily absent from Great Britain</b>  <b>3.</b> A claimant’s entitlement to state pension credit during periods of temporary absence from Great Britain is to continue for up to 13 weeks if—            (a) the period of the claimant’s absence from Great Britain is unlikely to exceed 52 weeks; and            (b) while absent from Great Britain the claimant continues to satisfy the other conditions of entitlement to state pension credit.</p>	<p><b>Persons temporarily absent from Great Britain</b>  <b>3.—(1)</b> A claimant’s entitlement to state pension credit during periods of temporary absence from Great Britain is to continue if—            (a) while absent from Great Britain the claimant continues to satisfy the other conditions of entitlement to state pension credit; and            (b) either—                (i) the absence is not expected to exceed, and does not exceed, 4 weeks; or                (ii) paragraph (3) applies.  <b>(2)</b> The period of 4 weeks in paragraph (1)(b) may be extended by up to a further 4 weeks if the temporary absence is in connection with the death of—            (a) the claimant’s partner or a child or qualifying young person normally living with the claimant; or            (b) a close relative of the claimant, or of their partner or of a child or qualifying young person normally living with the claimant,            and the Secretary of State considers that it would be unreasonable to expect the claimant to return to Great Britain within the first 4 weeks.  <b>(3)</b> This paragraph applies where the absence is not expected to exceed, and does not exceed, 26 weeks and is solely in connection with—            (a) the claimant undergoing—                (i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner; or                (ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the claimant had that illness or impairment before leaving Great Britain; or            (b) the claimant accompanying their partner or a child or qualifying young person normally living with the</p>

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	<p>claimant for treatment or convalescence or care as mentioned in sub-paragraph (a).</p> <p>(4) In this regulation and in regulation 5—</p> <p>“medically approved” means certified by a registered medical practitioner;</p> <p>“qualified practitioner” means a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.”</p>
<p><b>Regulation 3A of the State Pension Credit Regulations 2002</b></p>	<p><b>Regulation 3A of the State Pension Credit Regulations 2002</b></p>
<p><b>Persons temporarily absent from Great Britain on 6th October 2008</b></p> <p><b>3A.</b> Where a claimant—</p> <p>(a) is already temporarily absent from Great Britain on 6th October 2008;</p> <p>(b) had a continuing entitlement to state pension credit immediately before that day; and</p> <p>(c) while absent from Great Britain, continues to satisfy the other conditions of entitlement to state pension credit,</p> <p>the claimant’s entitlement to state pension credit is to continue during that period of absence from Great Britain for up to 13 weeks.</p>	<p>Omitted</p>
<p><b>Regulation 4 of the State Pension Credit Regulations 2002</b></p>	<p><b>Regulation 4 of the State Pension Credit Regulations 2002</b></p>
<p><b>Persons receiving treatment outside Great Britain</b></p> <p><b>4.</b> (1) For the purposes of the Act, a person who is receiving treatment at a hospital or other institution outside Great Britain shall be treated as being in Great Britain if the treatment is being provided—</p> <p>(a) under section 6(2) of the Health Service Act (performance of functions outside England) or section 6(2) of the Health Service (Wales) Act (performance of functions outside Wales);</p> <p>(b) pursuant to arrangements made under section 12(1) of the Health Service Act (Secretary of State’s arrangements with other bodies), section 10(1) of the Health Service (Wales) Act (Welsh Ministers’ arrangements with other bodies), paragraph 18 of Schedule 4 to the Health Service Act (joint exercise of functions) or paragraph 18 of Schedule 3 to the Health Service (Wales) Act (joint exercise of functions);</p> <p>(c) under equivalent provision in Scotland or pursuant to arrangements made under such provision.</p> <p>(2) Paragraph (1) applies only where—</p> <p>(a) the “person” is the claimant or his partner; and</p> <p>(b) the claimant satisfied the conditions for entitlement to state pension credit immediately before he or, as the case may be, his partner, left Great Britain.</p>	<p>Omitted</p>

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Regulation 4A of the State Pension Credit Regulations 2002	Regulation 4A of the State Pension Credit Regulations 2002
N/A	<p data-bbox="884 376 1337 405">“Meaning of “qualifying young person”</p> <p data-bbox="884 427 1401 488">4A.—(1) a person who has reached the age of 16 but not the age of 20—</p> <ul style="list-style-type: none"> <li data-bbox="932 501 1401 589">(a) up to, but not including, the 1st September following their 16th Birthday; and</li> <li data-bbox="932 604 1401 748">(b) up to, but not including, the 1st September following their 19th Birthday, if they are enrolled on, or accepted for, approved training or a course of education— <ul style="list-style-type: none"> <li data-bbox="995 763 1401 913">(i) which is not a course of advanced education within the meaning of regulation 12(3) of the Universal Credit Regulations 2013(17);</li> <li data-bbox="995 929 1401 1108">(ii) which is provided at a school or college or provided elsewhere but approved by the Secretary of State for the purposes of regulation 5 of the Universal Credit Regulations 2013; and</li> <li data-bbox="995 1124 1401 1303">(iii) where the average time spent during term time in receiving tuition, engaging in practical work or supervised study or taking examinations exceeds 12 hours per week.</li> </ul> </li> </ul> <p data-bbox="884 1319 1401 1435">(2) Where the young person is aged 19, they must have started the education or training or been enrolled on or accepted for it before reaching that age.</p> <p data-bbox="884 1451 1401 1538">(3) The education or training referred to in paragraph (1) does not include education or training provided by means of employment.</p> <p data-bbox="884 1554 1401 1794">(4) “Approved training” means training in pursuance of arrangements made under section 2(1) of the Employment and Training Act 1973(18) or section 2(3) of the Enterprise and New Towns (Scotland) Act 1990(19) which is approved by the Secretary of State for the purposes of regulation 5 of the Universal Credit Regulations 2013.</p> <p data-bbox="884 1809 1401 1924">(5) A person who is receiving universal credit, a contributory employment and support allowance, a contribution-based jobseeker’s allowance, an income-related employment and</p>

(17) S.I. 2013/376.

(18) 1973 c.50.

(19) 1990 c.35.

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	support allowance, an income-based jobseeker's allowance or income support is not a qualifying young person.”.
<b>Regulation 5 of the State Pension Credit Regulations 2002</b>	<b>Regulation 5 of the State Pension Credit Regulations 2002</b>
<p><b>Persons treated as being or not being members of the same household</b></p> <p><b>5.</b> (1) A person is to be treated as not being a member of the same household as the claimant if—</p> <p>(a) he is living away from the claimant and—</p> <p>(i) he does not intend to resume living with the claimant; or</p> <p>(ii) his absence is likely to exceed 52 weeks except where there are exceptional circumstances (for example the person is in hospital or otherwise has no control over the length of his absence), and the absence is unlikely to be substantially more than 52 weeks;</p> <p>(b) he or the claimant is permanently in a care home or an independent hospital;</p> <p>(c) he or the claimant is, or both are—</p> <p>(i) detained in a hospital provided under the provisions of the Mental Health Act 1983, the Mental Health (Care and Treatment) (Scotland) Act 2003, or the Criminal Procedure (Scotland) Act 1995; or</p> <p>(ii) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or</p> <p>(iii) on temporary release in accordance with the provisions of the Prison Act 1952 or the Prison (Scotland) Act 1989;</p> <p>(d) the claimant is abroad and does not satisfy regulation 3 (persons temporarily absent from Great Britain).</p> <p>(e)</p> <p>(f) he is absent from Great Britain for more than 13 weeks;</p> <p>(g)</p> <p>(h) he is a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999.</p> <p>115(9) of the Immigration and Asylum Act 1999 (1A) Paragraph (1)(d) and (f) shall not apply where a person is treated as being in Great Britain in accordance with regulation 4.</p> <p>(2) Subject to paragraph (1), partners shall be treated as members of the same household notwithstanding that they are temporarily living apart.</p> <p>(3)</p>	<p><b>Persons treated as being or not being members of the same household</b></p> <p><b>5.</b> (1) A person is to be treated as not being a member of the same household as the claimant if—</p> <p>(a) he is living away from the claimant and—</p> <p>(i) he does not intend to resume living with the claimant; or</p> <p>(ii) his absence is likely to exceed 52 weeks except where there are exceptional circumstances (for example the person is in hospital or otherwise has no control over the length of his absence), and the absence is unlikely to be substantially more than 52 weeks;</p> <p>(b) he or the claimant is permanently in a care home or an independent hospital;</p> <p>(c) he or the claimant is, or both are—</p> <p>(i) detained in a hospital provided under the provisions of the Mental Health Act 1983, the Mental Health (Care and Treatment) (Scotland) Act 2003, or the Criminal Procedure (Scotland) Act 1995; or</p> <p>(ii) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or</p> <p>(iii) on temporary release in accordance with the provisions of the Prison Act 1952 or the Prison (Scotland) Act 1989;</p> <p>(d) the claimant is abroad and does not satisfy regulation 3 (persons temporarily absent from Great Britain).</p> <p>(e)</p> <p>(f) he is absent from Great Britain for more than 4 weeks where the absence is not expected to exceed, and does not exceed, 4 weeks, unless this period is extended in accordance with paragraphs (1A) or (1B);</p> <p>(g)</p> <p>(h) he is a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999.</p> <p>“(1A) The period of 4 weeks specified in paragraph (1)(f) may be extended by up to a further 4 weeks if the absence from Great Britain is in connection with the death of—</p> <p>(a) a child or qualifying young person normally living with the person; or</p> <p>(b) a close relative of the person, or of their partner or of a child or qualifying young person normally living with the person,</p> <p>and the Secretary of State considers that it would be unreasonable to expect the person to return to Great Britain within the first 4 weeks.</p>

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	<p>(1B) The period of 4 weeks specified in paragraph (1)(f) may be extended up to 26 weeks where the absence is not expected to exceed, and does not exceed, 26 weeks and is solely in connection with—</p> <p>(a) the person undergoing—</p> <p>(i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner; or</p> <p>(ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the person had that illness or impairment before leaving Great Britain; or</p> <p>(b) the person accompanying their partner or a child or qualifying young person normally living with the person for treatment or convalescence or care as mentioned in subparagraph (a).”</p> <p>(2) Subject to paragraph (1), partners shall be treated as members of the same household notwithstanding that they are temporarily living apart.</p> <p>(3)</p>
<b>Paragraph 2(2) of Schedule I to the State Pension Credit Regulations 2002</b>	<b>Paragraph 2(2) of Schedule I to the State Pension Credit Regulations 2002</b>
<p><b>Persons residing with the claimant whose presence is ignored</b></p> <p>2.—(1) For the purposes of paragraph 1(1)(a)(ii), (b)(ii) and (c)(iii), this paragraph applies to the persons specified in the following sub-paragraphs.</p> <p>(2) A person who—</p> <p>(a) is in receipt of attendance allowance, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act or armed forces independence payment;</p> <p>(b) is certified as severely sight impaired or blind by a consultant ophthalmologist;</p> <p>(c) is no certified as severely sight impaired or blind in accordance with head (b) but was so certified not more than 28 weeks earlier;_</p> <p>(d) lives with the claimant in order to care for him or his partner and is engaged by a charitable or voluntary organisation which makes a charge to the claimant or his partner for the services provided by that person;</p> <p>(e) is a partner of a person to whom head (d) above applies; or</p> <p>(f) is a person who is a qualifying young person or child for the purposes of Part IX of the 1992 Act.</p>	<p><b>Persons residing with the claimant whose presence is ignored</b></p> <p>2. (1) For the purposes of paragraph 1(1)(a)(ii), (b)(ii) and (c)(iii), this paragraph applies to the persons specified in the following sub-paragraphs.</p> <p>(2) A person who—</p> <p>(a) is in receipt of attendance allowance , the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act or armed forces independence payment;</p> <p>(b) is certified as severely sight impaired or blind by a consultant ophthalmologist;</p> <p>(c) is no certified as severely sight impaired or blind in accordance with head (b) but was so certified not more than 28 weeks earlier;_</p> <p>(d) lives with the claimant in order to care for him or his partner and is engaged by a charitable or voluntary organisation which makes a charge to the claimant or his partner for the services provided by that person;</p> <p>(e) is a partner of a person to whom head (d) above applies; or</p> <p>(f) is a person who is a qualifying young person within the meaning of regulation 4A or child as defined in section 40 of the 2012 Act</p>
<b>Paragraph 1(8) of Schedule III to the State</b>	<b>Paragraph 1(8) of Schedule III to the State</b>

<b>Current Version</b>	<b>Proposed New Version</b>
<b>Pension Credit Regulations 2002</b>	<b>Pension Credit Regulations 2002</b>
(8) In regulations 5, 6(8), 10, 12 and 14 and in paragraph 6(5)(b)(v) of Schedule 1 and in Schedule 2, any reference to a partner includes also a reference to any additional spouse to whom this paragraph applies.	(8) In regulations 3, 5, 6(8), 10, 12 and 14 and in paragraph 6(5)(b)(v) of Schedule 1 and in Schedule 2, any reference to a partner includes also a reference to any additional spouse to whom this paragraph applies.
<b>Paragraph 6(2)(c) of Schedule V to the State Pension Credit Regulations 2002</b>	<b>Paragraph 6(2)(c) of Schedule V to the State Pension Credit Regulations 2002</b>
<p>6. (1) Where a claimant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from, or dissolution of his civil partnership with, his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.</p> <p>(2) In this paragraph–</p> <p>(a) “dwelling” includes any garage, garden and outbuildings, which were formerly occupied by the claimant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated;</p> <p>(b) “lone parent” means a person who has no partner and who is responsible for, and a member of the same household as, a child; and</p> <p>(c) “child” means a person who is a qualifying young person or a child for the purposes of Part IX of the 1992 Act.</p>	<p>6. (1) Where a claimant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from, or dissolution of his civil partnership with, his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.</p> <p>(2) In this paragraph–</p> <p>(a) “dwelling” includes any garage, garden and outbuildings, which were formerly occupied by the claimant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated;</p> <p>(b) “lone parent” means a person who has no partner and who is responsible for, and a member of the same household as, a child; and</p> <p>(c) “child” means a person who is a qualifying young person within the meaning of regulation 4A or a child as defined in section 40 of the 2012 Act..</p>
<b>Paragraph 15(8) of Schedule V to the State Pension Credit Regulations 2002</b>	<b>Paragraph 15(8) of Schedule V to the State Pension Credit Regulations 2002</b>
<p>(8) In this paragraph–</p> <p>“child” means any person who is a qualifying young person or a child for the purposes of Part IX of the Contributions and Benefits Act (child benefit);</p> <p>“course of study” means any course of study, whether or not it is a sandwich course and whether or not a grant is made for undertaking or attending it;</p> <p>“qualifying course” means a qualifying course as defined for the purposes of Parts II and IV of the Jobseeker’s Allowance Regulations;</p> <p>“sandwich course” has the meaning given in regulation 5(2) of the Education (Student Support) Regulations 2001, regulation 5(2) of the Education (Student Loans) (Scotland) Regulations 2000 or regulation 5(2) of the Education (Student Support) Regulations (Northern Ireland) 2000, as the case may be;</p> <p>“student” means a person, other than a person in receipt of a training allowance, who is attending or undertaking–</p> <p>(a) a course of study at an educational establishment; or</p> <p>(b) a qualifying course;</p> <p>“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable–</p> <p>(a) out of public funds by a Government department or</p>	<p>(8) In this paragraph–</p> <p>“child” means any person who is a qualifying young person within the meaning of regulation 4A or a child as defined in section 40 of the 2012 Act;</p> <p>“course of study” means any course of study, whether or not it is a sandwich course and whether or not a grant is made for undertaking or attending it;</p> <p>“qualifying course” means a qualifying course as defined for the purposes of Parts II and IV of the Jobseeker’s Allowance Regulations;</p> <p>“sandwich course” has the meaning given in regulation 5(2) of the Education (Student Support) Regulations 2001, regulation 5(2) of the Education (Student Loans) (Scotland) Regulations 2000 or regulation 5(2) of the Education (Student Support) Regulations (Northern Ireland) 2000, as the case may be;</p> <p>“student” means a person, other than a person in receipt of a training allowance, who is attending or undertaking–</p> <p>(a) a course of study at an educational establishment; or</p> <p>(b) a qualifying course;</p> <p>“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable–</p> <p>(a) out of public funds by a Government department or</p>

<b>Current Version</b>	<b>Proposed New Version</b>
<p>by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise;</p> <p>(b) to a person for his maintenance or in respect of a member of his family; and</p> <p>(c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973 or is training as a teacher</p>	<p>by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise;</p> <p>(b) to a person for his maintenance or in respect of a member of his family; and</p> <p>(c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973 or is training as a teacher</p>
<p><b>Paragraph 1(2)(b) of Schedule VI to the State Pension Credit Regulations 2002</b></p>	<p><b>Paragraph 1(2)(b) of Schedule VI to the State Pension Credit Regulations 2002</b></p>
<p>1.(1) In a case where a claimant is a lone parent, £20 of earnings.</p> <p>(2) In this paragraph–</p> <p>(a) “lone parent” means a person who has no partner and who is responsible for, and a member of the same household as, a child;</p> <p>(b) “child” means a person who is a qualifying young person or a child for the purposes of Part IX of the 1992 Act.</p>	<p>1.(1) In a case where a claimant is a lone parent, £20 of earnings.</p> <p>(2) In this paragraph–</p> <p>(a) “lone parent” means a person who has no partner and who is responsible for, and a member of the same household as, a child;</p> <p>(b) “child” means a person who is a qualifying young person within the meaning of regulation 4A or a child as defined in section 40 of the Act.</p>

# EXPLANATORY MEMORANDUM TO THE SOCIAL SECURITY ADVISORY COMMITTEE

## The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016

### Introduction

The Department proposes to amend the following sets of Regulations:

- the Housing Benefit Regulations 2006 (SI 2006/213);
- the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (SI 2006/214); and
- the State Pension Credit Regulations (SI 2002/1792)

These amendments are intended to make changes to so that the period of allowable absence from outside Great Britain (GB) is reduced, generally from 13 weeks to 4 weeks. There will be limited prescribed exceptions to the general rule which are detailed later in this paper.

### Explanation, purpose and effect of the proposed changes

It is a condition of entitlement to Housing Benefit and Pension Credit that claimants are in GB. Although periods of temporary absence are allowed within the rules.

**Housing Benefit (HB)** has a general temporary absence rule meaning that HB can continue for a maximum of 13 weeks, where the period of absence does not, or is not expected to exceed 13 weeks, and the person intends returning to the dwelling and has not sub-let it.

If the period of absence is expected to last more than 13 weeks, HB stops immediately. Within this rule, HB does not distinguish between absences from home within GB or outside GB

**Pension Credit (PC)** has a parallel rule which however is specific to absences outside of GB. This allows entitlement to continue for absences outside of GB for up to 13 weeks where the absence is unlikely to exceed 52 weeks and the claimant continues to fulfil the other conditions of entitlement.

The policy, announced as part of the Chancellor's Autumn Statement, is to restrict temporary absences from GB in both benefits to four weeks.

### Rationale



There are sound reasons for maintaining the 13 week absence rule for absences within GB, which allows flexibility for Housing Benefit claimants to leave home for work, or to look for work.

The rationale for the change *from GB* is that the current rule to allow a means tested benefit, paid for out of general taxation, to continue where the claimant is abroad for a period of up to 13 weeks is too long and should be shorter.

The Secretary of State has considered what the period should be shortened to and considers that 4 weeks is appropriate because the change will broadly align with Universal Credit (UC) and other legacy benefits such as Income Support (IS) and Jobseeker's Allowance (JSA) for simplification and fairness.

Transition Protection will apply to those away from GB at the time the policy comes into force.

The temporary absence changes will affect around 130,000 HB and PC claimants (taking account of overlaps). We have assumed for the costs that over half of these will adapt their behaviours to avoid any financial losses and that around 45,000 will continue to take an absence of between 4 and 13 weeks and incur a loss of benefit of, on average, around £600 in total. The change will provide savings to the tax payer of £20m in the first year.

### **Extensions to the temporary absence rule**

Within UC/other legacy benefits there are currently circumstances where extended periods of absence outside of GB, above the normal 4 week period, are permitted. Additionally, particular issues in relation to the extension of the general rule are outlined below to help the Committee.

UC provides that members of Her Majesty's Forces posted overseas do not have to meet the basic condition of entitlement of being in GB. They are dealt with by waiving the basic UC condition of entitlement which relates to being in GB rather than their being part of the UC Temporary Absence provisions. This allows such claimants to retain entitlement to the housing costs element of UC for up to 26 weeks if they meet the occupation criteria.

HB does not have any special temporary absence rules for these categories of people, so they currently fall under the general provisions of 13 weeks absence. We propose to align to 26 weeks for the armed forces who are absent from GB.

This would be more generous than the 13 week rule for those in GB, as training within GB is usually up to 43 days and deployments abroad are usually for longer than 13 weeks. Analytical evidence is slight. Collective opinion and anecdotal evidence suggests that there would be small numbers in the armed forces claiming HB due to enhanced payments they get if they are serving abroad which would likely lift them out of HB. The costs for those that need HB for support would therefore be negligible.

UC provides protection to mariners and continental shelf workers by allowing them 6 months absence from GB.

We are proposing to mirror this treatment for mariners and continental shelf workers. This would be more generous than the current provision in order to align with UC, Were they not provided for specifically, it would mean that they would have their HB entitlement reduced from 13 weeks to four weeks if they work outside GB “waters”. By the nature of their work, the majority of their time is spent working in international “waters”.

## **Pension Age**

PC currently has no extension to the temporary absence rule to cover any of the categories above, and given PC is primarily a safety net benefit for people who have reached women’s State Pension age, we do not propose to introduce new rules to specifically cover mariners, continental shelf workers and members of the armed forces.

We do think however, that it is sensible to have a rule which is consistent in both the working age and pension age versions of HB. That is because the HB provisions need to cover the absences of a wider range of people than PC: namely people who form part of the claimant’s household, and therefore, irrespective of their age, could affect the claimant’s HB entitlement. The result of these changes is therefore that there will be some differences in the absence regimes for state pension credit claimants and those of state pension age who are claiming HB.

Both HB and PC will allow a temporary absence abroad for up to 26 weeks in the case of medical treatment and for up to 8 weeks in the case of bereavement.

## **Commencement and application of the proposed changes**

The changes to temporary absence rules will be effective from the 1st April 2016. Transitional protection will be afforded for those who are already abroad when the new rules commence including entitlement to existing extensions thus giving those claimants protection.

We are working with the relevant Northern Ireland Executive departments to ensure all UK claimants are treated in the same way for this policy change regardless of where they live in the UK. We would expect NI Ministers to implement similar policies in keeping with the commitment in the Northern Ireland Act to ensure common welfare systems as far as can be agreed.

## **The Regulations**

### **Draft Regulation 1**

Draft Regulation 1 provides the coming into force date as 1 April 2016.

## **Draft Regulation 2**

Draft regulation 2(2) of these Regulations amends regulation 7(11) of the Housing Benefit Regulations 2006 to provide that it will only apply where the person enters residential accommodation in Great Britain.

Draft regulation 2(3) amends regulation 7(13) of the Housing Benefit Regulations 2006 maintains this rule for people who are temporarily absent from their home and remain in Great Britain.

Draft regulation 2(4) reduces from 13 weeks to 4 weeks the period that a person will be treated as occupying a dwelling from which they are temporarily absent as their home when the person is absent from Great Britain.

However, if the absence from Great Britain is in connection with the death of: a partner; child or young person for whom they or their partner are responsible; their or their partner's close relative; or a close relative of a child or young person for whom they or their partner are responsible, then the period of absence may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return within the first 4 weeks.

Draft regulation 2(4) provides for a further that if the person is a member of the armed forces away on operations, a mariner or a continental shelf worker, and is absent from Great Britain, the person may be treated as occupying the dwelling as their home whilst they are temporarily absent, for up to 26 weeks.

Draft regulation 2(5) amends regulation 7(16) of the Housing Benefit Regulations 2006 in four ways. Firstly, they substitute "Great Britain" for "United Kingdom", secondly they insert continental shelf workers and mariners into sub-paragraph (c), thirdly they amend paragraph (16)(d) in relation to how long the period of absence is likely to be.

Draft regulation 2(6) amends regulation 7(17) of the Housing Benefit Regulations 2006 to provide that where a person within paragraph (16) is absent from Great Britain then they will be treated as occupying the dwelling as their home for up to four weeks unless they are a person to whom any of paragraphs (16)(c) (ii), (iii) and (vii) of regulation 7 of the Housing Benefit Regulations 2006 applies, in which case they can be treated as occupying the dwelling for up to 26 weeks.

Draft regulation 2(7) makes amendments to regulation 7 which are consequential to these changes.

In terms of the relation between absences within and outside Great Britain, the intention is that a person may be temporarily absent within Great Britain, from the dwelling they normally occupy as their home, for a period of up to 13 weeks (or longer where allowed) beginning with the first day of absence from the home, and may in addition be temporarily absent from Great Britain for a period of up to 4 weeks (or longer where allowed). Where the temporary absence from Great Britain ends they must return home in order to retain entitlement to housing benefit, unless

the period of absence outside Great Britain ends before the expiry of the 13 week period (or longer where allowed) in which case they may be absent within Great Britain for the remainder of that period.

### **Draft regulation 3**

Draft regulation 3 makes similar amendments to the Housing Benefit (persons who have attained the qualifying age for state pension credit) Regulations 2006.

### **Draft regulation 4**

Draft regulation 4(2) amends regulation 3 of the State Pension Credit Regulations 2002. This currently allows a claimant's entitlement to PC to continue for up to 13 weeks while the claimant is absent from GB. This is reduced to 4 weeks, providing that the absence is not expected to exceed, and does not exceed 4 weeks. This 4 week period can be extended by a further 4 weeks where the absence is in connection with the death of the claimant's partner, or a child or qualifying young person normally living with the claimant, or the death of a close relative of one of these groups.

PC currently allows indefinite absence for NHS patients receiving medical treatment abroad. Draft regulation 4(2) reduces this period to 26 weeks in line with the provisions in UC but will now allow the claimant to be absent for a wider range of medical treatment and for medically approved convalescence.. It will also allow for absence where a claimant is accompanying a partner or a child or qualifying young person normally living with the claimant for medical treatment.

Draft regulation 4(3) omits Regulation 3A of the State Pension Credit Regulations 2002 which contained a transitional provision from the last time the temporary absence provisions in the Regulations were amended.

Draft regulation 4(4) omits regulation 4 of the State Pension Credit Regulations 2002 which contained an absence provision relating to medical treatment. The new medical absence provisions can now be found in draft regulation 4(2).

Draft regulation 4(5) inserts a new regulation 4A into the State Pension Credit Regulations 2002 which contains a definition of qualifying young person in line with the definition in the Universal Credit Regulations 2013 (S.I. 2013/376).

Draft regulation 4(6) amends regulation 5 of the State Pension Credit Regulations 2002 so that the claimant's partner is subject to the same rules on temporary absence as the claimant. This means that the claimant's partner will continue to be treated as a member of the claimant's household while absent from GB which will enable the claimant to claim a couple's rate of PC.

Draft regulation 4(7), 4(9) and (10) makes changes to the Schedules of the State Pension Credit Regulations 2002 so that the definitions of qualifying young person and child cross-refer to the definition of qualifying young person in regulation 4A of those Regulations and to the definition of child in section 40 of the Welfare Reform Act 2012.

Draft regulation 4(8) applies the provisions relating to polygamous marriages to regulation 3 of the State Pension Credit Regulations so that the word 'partner' in regulation 3 will include any additional spouse to whom paragraph 1 of Schedule 3 applies. This will enable the claimant to be absent from GB in respect of the death or medical treatment of a polygamous spouse.

### **Draft regulation 5**

Draft regulation 5 makes transitional provision so that the amendments in draft regulations 2 and 3 do not apply in respect of a person who is temporarily absent from Great Britain on 01 April 2016 until they return to Great Britain unless the person is a member of the armed forces away on operations, a continental shelf worker or a mariner.

Draft regulation 5 also stipulates that draft regulation 4 does not apply to a person who is temporarily absent from Great Britain on 01 April 2016 until the person returns to Great Britain.

### **Impact of the proposed changes**

#### **Equality and diversity**

In respect of the proposed changes we have considered the policy in the context of the Public Sector Equality Duty under section 149 of the Equality Act 2010. A separate Equality Analysis is attached for HB and for PC.

#### **Operational impacts**

##### **Complexity**

These changes are intended to reduce the allowable absence from GB and align with UC and other legacy benefits. There may be some extra administration for local authorities and the Pension Service arising from dealing with those cases where claims are closed and then re-opened following a period abroad exceeding the prescribed limits when those limits are reduced.

We are working with the Local Authority Associations and IT suppliers to assess requirements to implement the change.

Minor IT changes will be required within LAs.

##### **Impact on claimants**

Currently claimants are required to report any changes which might affect their HB and PC entitlement, including absences from home, where those will last or are expected to last more than 13 weeks.

Those leaving GB will, under the new measure, be required to continue to report such absences, the reason for the absence and the expected duration but will not be

required to answer more questions, provide more information and evidence or undertake new activities.

Where there could be cases of real prejudice, e.g. on medical absence and, for HB only, some occupations abroad from GB we will allow absences of up to 26 weeks.

For claimants who have already made commitments to be abroad at the time the regulations come into force, we have provided transitional provisions. We are working with LAs and stakeholders to provide further information for claimants.

It is difficult to predict behavioural impacts with any certainty but it is possible that people who would previously have been temporarily absent for between four and 13 weeks will reduce the length of time they are absent from the country under the new rules.

The temporary absence changes will affect around 100,000 HB claimants and 60,000 PC claimants. Taking account of overlaps between the two (about 45% of PC claimants also claim HB), this represents about 130,000 claimants. We assume for the costs that over half of these will adapt their behaviours to avoid any benefit losses and that around 45,000 will continue to take an absence of between 4 and 13 weeks and incur a loss of benefit of, on average, around £600 in total.

There are other potential behavioural impacts - the policy could discourage claimants from notifying LAs and DWP of their intention to travel abroad, thus potentially increasing fraud rates. The potential behavioural aspects have been raised with the Fraud, Error and Debt (FED) working group. There are already disincentives to commit fraud including; cautions, administrative penalties and prosecution, as well as recovery of the fraudulent overpayment.

Due to the nature of the change it is not possible to identify in advance those who may be materially affected by this change, however, claimants who wish to be abroad from GB for longer periods should consider if they can afford to do so – just as working families do.

### **Information strategy and communications**

The Department routinely issues new guidance to HB processing staff at least five weeks before a legislative change comes into effect. The guidance for this change will be circulated in mid-February.

Guidance for PC staff will be updated to reflect the changes along with public facing communications. This will include updating the PC leaflet INF4 that tells PC customers which changes they must report.

The proposed change has been reported in the media and we have received and responded to queries from members of the public.

### **Consultation on the proposed changes**

The measure was decided and announced as part of the Spending Review 2015. Although the PC changes have not been subject to separate formal consultation, we are already in discussion with key stakeholders, for example, Age UK, before the changes are introduced. A six week period of consultation began with LAs on the 22nd December for changes to HB. The Committee will be notified in writing if the consultation process produces any change to the proposals.

### **Research, monitoring and evaluation**

We do not propose to undertake formal evaluation of this change. We will monitor the impact through our regular liaison with the Local Authority Associations and FED working group.

### **Business**

These proposed regulations will not impact on business.

## Annex A

### Summary of Housing Benefit changes relating to temporary absence outside GB

Situation	Current Rules of absence outside GB	Proposed Rules of absence outside GB
Claimant or partner temporarily absent for any reason.	Up to 13 weeks	Up to 4 weeks (aligns with UC)
Claimant absent in connection with the death of a partner	Up to 13 weeks	Up to 8 weeks (aligns with UC)
Claimant or partner absent in connection with the death of a child or a qualifying young person normally living with the claimant.	Up to 13 weeks	Up to 8 weeks (aligns with UC)
Claimant or partner absent in connection with the death of a close relative of claimant, partner or of a child of qualifying young person normally living with the claimant.	Up to 13 weeks	Up to 8 weeks (aligns with UC)
Claimant or partner absent abroad in order to receive medical treatment	Up to 52 weeks	Up to 26 weeks (aligns with UC)
Claimant or partner accompanying a partner, child or qualifying young person for medical treatment abroad	Up to 52 weeks	Up to 26 weeks (aligns with UC)
A person enters residential accommodation to determine whether it is suitable for their needs	13 weeks	Up to 4 weeks (aligns with UC)
The person is resident in hospital or similar institution as a patient	52 weeks	Up to 26 weeks (aligns with UC)
The claimant, partner or dependent child is undergoing medical treatment (MT) or medically approved convalescence in	52 weeks	Up to 26 weeks (aligns with UC)



accommodation other than residential accommodation		
The person is providing medically approved care (MAC) of a person residing in the UK or elsewhere.	52 weeks	Up to 4 weeks (aligns with UC)
The person is caring for a child whose parent is temporarily absent for receiving MAC or MT.	52 weeks	Up to 4 weeks (aligns with UC)
The person receiving temporary care in residential accommodation that is not on a trial basis.	52 weeks	Up to 4 weeks (aligns with UC)
The person that has left their dwelling through fear of violence in that dwelling.	52 weeks	Up to 4 weeks (aligns with UC)
In connection with being a mariner or continental shelf worker	Up to 13 weeks	Up to 26 weeks (aligns with UC)
In connection with being a Share fisherman	Up to 13 weeks	Up to 4 weeks
The person is undertaking a training course.	Up to 52 weeks	Up to 4 weeks (aligns with UC)
Students	Up to 52 weeks	Up to 4 weeks (aligns with UC)
A person is detained in custody on remand pending trial, pending sentence upon conviction, has bail requirements to live elsewhere, needs to live in bail accommodation or is sentenced following conviction	Up to 52 weeks	Up to 4 weeks (aligns with UC)
Crown Servants	Up to 13 weeks	Up to 4 weeks (aligns with UC)
Members of Her Majesty's Armed Forces	Up to 13 weeks if absent outside of GB. If within GB, 13 weeks	For absence outside of GB, 26 weeks (aligns with UC Reg 10)  For absence within GB, no change.
Northern Ireland, Isle of Man and the Channel Islands (absences to any of these places is absence outside GB)	13 weeks	4 weeks in line with treatment in other legacy benefits and UC

**Summary of Pension Credit changes relating to  
temporary absence outside GB**

<b>Situation</b>	<b>Current Rules of absence outside GB</b>	<b>Proposed Rules of absence outside GB</b>
Claimant or partner temporarily absent from GB for any reason.	Up to 13 weeks	Up to 4 weeks (aligns with UC)
Claimant absent in connection with the death of a partner	Up to 13 weeks	Up to 8 weeks (aligns with UC)
Claimant or partner absent in connection with the death of a child or a qualifying young person normally living with the claimant.	Up to 13 weeks	Up to 8 weeks (aligns with UC)
Claimant or partner absent in connection with the death of a close relative of claimant, partner or of a child of qualifying young person normally living with the claimant.	Up to 13 weeks	Up to 8 weeks (aligns with UC)
Claimant or partner absent abroad in order to receive medical treatment	Open-ended	Up to 26 weeks (aligns with UC)
Claimant or partner accompanying a partner, child or qualifying young person for medical treatment abroad	13 weeks	Up to 26 weeks (aligns with UC)
Transitional Protection	Exists for when the last rule change was introduced in 2008.	Those abroad at the time of the rule change subject to the old rules until they return to GB

# Equality Analysis for Housing Benefit (Temporary Absence)(Amendment) Regulations 2015

Date: 18.01.2016

Completed by: Darran Nuttall

# The Housing Benefit (Temporary Absence from Great Britain) Regulations 2015

## Introduction

This document records the analysis undertaken by the Department to enable Ministers to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010.

The PSED requires the Minister to pay due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

In undertaking the analysis that underpins this document, where applicable, the Department has also taken into account:

- the United Nations Convention on the Rights of Persons with Disabilities (CRPD);
- Convention on the Elimination of All Forms of Discrimination against Women;
- the United Nations Convention on the Rights of the Child (UNCRC).

## Brief outline of policy or service

Housing Benefit (HB) has a general temporary absence rule meaning that HB can continue for a maximum of 13 weeks, where the period of absence does not, or is not expected to exceed 13 weeks, and the person intends returning to the dwelling and has not sub-let the property. If the period of absence is expected to last more than 13 weeks, HB stops immediately. Within this rule, HB does not distinguish between absences from home within Great Britain (GB) or outside GB.

Universal Credit (UC) does have such a distinction, the general rule being that the allowable period is one month when the person is outside GB. The HB regulation relating to the 13 week absence is being amended to specify that absences from GB are limited to 4 weeks.

Amendments in line with the amendments to HB regulations are also being made to the Pension Credit regulations.

UC has an additional rule which allows an extension to the 4 weeks absence from GB rule following the death of their partner, child or qualifying young person. This rule is being included in the amendments to the HB regulations to align those regulations with UC.

HB allows up to 52 weeks absence in specific circumstances: for example, where the claimant or their partner needs to have treatment outside the UK for an illness or condition, or to accompany a child or young person who requires treatment for an illness or condition (see full list below). UC has a similar condition, but absences are limited to up to 6 months. The amending regulations will bring HB into line with UC, so that absences are limited to 26 weeks in specific circumstances. These will be narrower than the current HB circumstances.

UC also has an exemption for members of the armed forces who are away on operations outside GB, as well as mariners and continental shelf workers so that they are treated as being in GB for 26 weeks. HB regulations will be amended to add an exemption so that members of the armed forces who are away on operations outside GB can continue to be treated as occupying their accommodation for 26 weeks. This exemption will also apply to mariners and continental shelf workers.

## List of current extensions to general rule for absences in HB Regulation 7

This table shows the period of absence allowed under the current HB regulations and the new period which will apply to absences outside GB when the regulations are amended. Under the new regulations absences to Northern Ireland will be restricted to 4 weeks.

	Current (anywhere)	Proposed (if outside GB)
• <u>Regulation 7 (11) &amp; (12)</u> A person enters residential accommodation to determine whether it is suitable for their needs.	13 weeks	4 weeks
• <u>Regulation 7 (13)</u> A person can be temporarily absent, if the absence is unlikely to exceed 13 weeks	13 weeks	4 weeks
• <u>Regulation 7 (16) (i)</u> A person is detained in custody on remand pending trial, pending sentence upon conviction, has bail requirements to live elsewhere, needs to live in bail accommodation or is sentenced following conviction <sup>20</sup>	52 weeks	4 weeks
• <u>Reg 7 (16) (ii)</u> The person is resident in hospital or similar institution as a patient	52 weeks	26 weeks
• <u>Regulation 7 (16) (iii)</u> The person, partner or dependent child is undergoing medical treatment (MT) or medically approved convalescence in accommodation other than residential accommodation.	52 weeks	26 weeks <sup>21</sup>
• <u>Regulation 7 (16) (iv)</u> The person is undertaking a training course.	52 weeks	4 weeks
• <u>Regulation 7 (16)(v)</u> The person is providing medically approved care (MAC) of a person residing in the UK or elsewhere	52 weeks	4 weeks
• <u>Regulation 7(16)(vi)</u> the person is caring for a child whose parent is temporarily absent for receiving MAC or MT.	52 weeks	4 weeks
• <u>Regulation 7(16)(vii)</u> The person in the UK or elsewhere receiving MAC provided in accommodation other than residential accommodation.	52 weeks	26 weeks
• <u>Regulation 7(16)(viii)</u> A student that paragraph 3 & 6b does not apply.	52 weeks	4 weeks

<sup>20</sup> There are arrangements where a sentenced UK prisoner can request to be transferred to their home country under Schedule 1 of the Crime (Sentences) Act 1997.

<sup>21</sup> However, this only applies where the claimant, partner or child already had that illness or impairment before leaving GB.

- Regulation 7(16)(ix) The person receiving temporary care in residential accommodation that is not on a trial basis. 52 weeks 4 weeks
- Regulation 7(16)(x) The person that has left their dwelling through fear of violence in that dwelling. 52 weeks 4 weeks

### Transitional provision

A transitional provision will be included so that the changes won't apply to people who are temporarily absent from GB on the date the regulations come into force unless they are a member of the armed forces away on operations, a continental shelf worker or mariner.

## Evidence and analysis

The revised temporary absence rules will, from April 2016, apply to both new claimants to HB and the stock of HB claimants. Information on those claimants that take a temporary absence, regardless of length of time is not collected. Therefore, this assessment assumes that all HB claimants are potentially affected by the changes. The comparator group are those that are not claiming HB.

### Gender

The table below shows the gender breakdown of HB claimants, and those that are not claiming HB.

	Affected	Comparator
<b>Male</b>	29%	24%
<b>Female</b>	48%	25%
<b>Couple</b>	23%	52%
<b>All</b>	100%	100%

Source: 2012/13 Family Resources Survey

There is a higher proportion of single females in the affected group than in the comparator group as almost half of HB claimants are single females, compared to a quarter of those not claiming. There are a lower proportion of couples in the affected group.

### Gender - Conclusion

The new legislation will apply to all customers equally from April 2016 and so will not affect any customers differently because of their gender. However, because around half of the HB claimants are single females compared to a quarter of those not claiming HB, single females are more likely to be affected.

Couples are less likely to be impacted. Less than a quarter of HB claimants are couples compared to over half of those not claiming HB. However, we don't have data of those that would be directly affected through travelling abroad for more than 4 weeks.

Although we have no substantial analytical evidence, there will be small cases of claimants impacted by the policy (in the main, women) who have left their dwelling through fear of violence in that dwelling – for example fleeing back to a family in Northern Ireland.

Currently those fleeing domestic violence are allowed HB during a period of temporary absence for up to 52 weeks. Under the changes if they decide to flee to a place of safety outside GB, as with the example to Northern Ireland, then their HB will be stopped after 4 weeks. It is the Department's view that due to very small assumed numbers we do not propose to make extensions to this group.

## Disability

The table below shows the breakdown of households with at least one adult with a 2010 defined disability for both HB claimants and those not claiming HB.

There are a higher proportion of adults with a disability in the affected group in comparison to the comparator group

	Affected	Comparator
<b>No adults with Equality Act 2010 defined disability</b>	48%	75%
<b>At least one adult with Equality Act 2010 defined disability</b>	52%	25%
<b>All</b>	100%	100%

Source: 2012/13 Family Resources Survey

## Disability – Conclusion

The policy change affects all HB claimants equally, regardless of disability, the fact that there is a higher proportion of households with a disability in the affected group is due to the profile of those on HB compared to those not claiming HB.

However, although we don't have data of those that would be directly affected through travelling abroad for more than 26 weeks, of those that choose to do so, it may be that households with a disability would be disproportionately affected. Under the current rules a disabled person who needs to travel abroad for long periods for medical treatment or to convalesce will be awarded HB for up to 52 weeks but the new policy will reduce this to 26 weeks.

## Race / Ethnicity

The table below shows the race/ethnicity profile of HB claimants and non HB claimants

	Affected	Comparator
<b>Unknown</b>	12%	11%
<b>White</b>	74%	79%
<b>Mixed</b>	1%	1%
<b>Asian or Asian British</b>	4%	5%
<b>Black or Black British</b>	7%	2%
<b>Other including Chinese</b>	2%	1%
<b>All</b>	100%	100%

Source: 2012/13 Family Resources Survey

The profile between both those claiming HB and those not claiming shows there may be slightly fewer white people affected, and more Black / British Black. Although the difference between 74% and 79% might appear similar, in terms of statistical testing, because the sample size is large there is a statistically significant difference.

## Race/Ethnicity - Conclusion

The new legislation will apply to all customers equally from April 2016 and so will not affect any customers differently because of their race/ethnicity. However, due to the ethnicity profile of HB claimants, there may be an impact on the proportion of Black / Black British ethnicities and a lower proportion of white people are in the affected group.

However, although we don't have data of those that would be directly affected through travelling abroad for more than 4 weeks, of those that choose to do so, it may be that as around 20%<sup>22</sup> of visits between 28 and 90 days are to an Asian country potentially the Asian ethnicity could be more

<sup>22</sup> Source – International Passenger Survey Table 5.06 Visits to India, Pakistan and Other Asia.

affected by the rule change. This could also mean that this is reflected in a disproportionate impact on certain religious groups, for example Muslims, Sikhs and Hindus.

It is the Department's view that the allowance of a 4 week absence is reasonable and should allow sufficient time, for example, for pilgrimages or sharing religious festivals with family members abroad, without claimants having to reclaim Housing Benefit on their return to Great Britain.

## Age

The following table shows the age breakdown of HB recipients and those not receiving HB. Where the HB claimant is part of a couple, the age of the younger member of the couple has been used, in line with the UC definition of working age.

	Affected	Comparator
<b>Under 25</b>	18%	16%
<b>25 to 29</b>	10%	10%
<b>30 to 34</b>	8%	8%
<b>35 to 39</b>	7%	8%
<b>40 to 44</b>	10%	8%
<b>45 to 49</b>	8%	9%
<b>50 to 54</b>	7%	8%
<b>55 to 59</b>	6%	7%
<b>60 to 64</b>	5%	7%
<b>65 plus</b>	22%	20%
<b>All</b>	100%	100%

Source: 2012/13 Family Resources Survey

## Age – Conclusion

There are no significant differences between the age profile of those that would be affected and those of the comparator group. However, although we don't have data of those that would be directly affected through travelling abroad for more than 4 weeks, of those that choose to do so, it may be that older age groups would be disproportionately affected as they may travel abroad to try out residential accommodation for example in Northern Ireland or seeking Winter sun.

## Remaining groups

DWP has considered equality in respect of the introduction of this change on the remaining "protected characteristic" groups below, but there is no (or limited) data available in order to assess the impact of the policy on these groups:-

- Sexual orientation
- Pregnancy and maternity
- Religion and belief
- Marriage and civil partnerships
- Gender reassignment

The impact on households with children was considered and although there is no data available, it is possible that children who are fleeing domestic violence overseas with one of their parents will be affected more than children who remain in GB who are temporarily absent from their usual home.

## Decision making

The Department undertook analysis aimed at determining HB claimants, with reference to Gender, Disability, Race and Age. In order to facilitate comparisons, due to lack of data of those that take a



temporary absence, HB claimants in both social and private sector housing were used as a proxy for those that would be affected by changes to the temporary absence rules. The analysis showed that the potentially affected group would be more likely to be a single female or a female with children than the comparator group, more likely to be disabled than the comparator group. The analysis also showed that more Black / British Black ethnicity could be affected.

However, the impacts on these affected groups are due to the profiles of the current HB caseload, rather than changes in the policy. From April 2016 the reduction in the length of time a claimant can be temporarily absent outside GB will apply to all HB claimants regardless of their protected characteristics.

Whilst the primary analysis doesn't show an impact on the Asian ethnicity, analysis of the proportion of 28 – 90 day visits to Asian countries suggests that this ethnicity may be more likely to take temporary absence over the affected period of time and so due to the policy change may be more likely to be impacted more than the comparator group.

## Monitoring and evaluation

DWP is committed to monitoring the effects of its policies and we will use evidence from a number of sources on the experiences and outcomes of the protected groups.

We will use administrative datasets to monitor trends in the benefit caseloads for some of the protected groups and in the level and distribution of benefit entitlements. The administrative data will provide robust material for age and gender although not, as a rule, for the other protected groups.

We will use feedback from stakeholder groups to assess whether there are unintended consequences for the protected groups, and whether the policy itself results in adverse consequences for particular groups.

As part of our actions in the context of the data requirements under the Equality Act, we are looking across DWP activities to identify and address further gaps in data provision wherever reasonable.

## When will the potential impacts be reviewed?

Local Authority decision makers will be given contact details to ensure they can report problems should they occur. This is normal practice, and is in addition to the more corporate liaison arrangements between the Department and the Local Authority associations, which also provide Local Authorities with the means of raising issues with the Department.

## Sign off

**Neil Johnson**

# Equality Analysis for The State Pension Credit (Temporary Absence from Great Britain) Regulations 2016

Date: 06.01.2016

Completed by: Jason Westerman

# The State Pension Credit (Temporary Absence from Great Britain) Regulations 2016

## Introduction

This document records the analysis undertaken by the Department to enable Ministers to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010.

The PSED requires the Minister to pay due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

The duty is a continuing one and doesn't stop once policy decisions are made.

This document considers issues of equality and provides an equality impact assessment of the changes to the temporary absence provisions in State Pension Credit.

In undertaking the analysis that underpins this document, where applicable, the Department has also taken into account the United Nations Convention on the Rights of Persons with Disabilities (CRPD), and in particular Article 19 under which the parties to the Convention recognise the equal right of all disabled people to live in the community, with choices equal to others, and the need to take effective and appropriate measures to facilitate full enjoyment by disabled people of this right and their full inclusion and participation in the community. The Department has also had regard to its obligations under the Convention for the Elimination of Discrimination Against Women and the United Nations Convention on the Elimination of all forms of Racial Discrimination.

## Brief outline of policy or service

The changes apply to Pension Credit claimants from April 2016. Claimants who are temporarily absent from Great Britain for up to 4 weeks will be treated as being in Great Britain and continue to receive Pension Credit providing they fulfill the other conditions of entitlement. Prior to this change, the rule was 13 weeks. The 13 week rule itself was an amendment introduced in 2008 which aligned Pension Credit with Housing Benefit. The original rule when Pension Credit was introduced in 2003 was 4 weeks.

There will be exceptions to the 4 week rule:

- Where the claimant or their partner is receiving medical treatment, or accompanying a child or young person receiving such treatment, they can continue to be treated as being in Great Britain for up to 26 weeks;
- Where the absence is in connection with the death of a partner, or a child or qualifying young person who normally lives with the claimant, or the death of a close relative of one of these, they can be treated as being in Great Britain for up to 8 weeks;

For those claimants outside Great Britain when the amendments take effect the current intention is for there to be some transitional protection to allow the old rules to apply.

In addition, the rules on who can be treated as being a member of the claimant's household are also amended to be consistent with the new temporary absence from Great Britain rules. The membership of the household test is important and can affect the make-up of the claimant's award of benefit.

The amendments to the temporary absence from Great Britain rule will bring Pension Credit into line with Universal Credit. Similar changes are also being made to the Housing Benefit rules. This will have the effect of generally aligning the rules on temporary absence from Great Britain across Universal Credit, Housing Benefit and Pension Credit.

## Evidence and analysis

Information about the number of people receiving Pension Credit is available on the DWP tabulation tool:

[http://tabulation-tool.dwp.gov.uk/100pc/pc/tabtool\\_pc.html](http://tabulation-tool.dwp.gov.uk/100pc/pc/tabtool_pc.html)

However, the Department does not retain statistics on the number of Pension Credit claimants who make use of the temporary absence from Great Britain rules nor on the destinations that claimants visit nor on the reason for their absence.

### **Characteristic 1 – Disability**

The amendments apply to all Pension Credit claimants, regardless of whether they are disabled or whether an amount for severe disability is included in their award.

In February 2015 the Department published information on the breakdown of the number of Pension Credit claimants who qualify for the severe disability additional amount. The information can be accessed here:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/401536/pension-c\\_reddit-additional-amounts-and\\_aips-may-2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/401536/pension-c_reddit-additional-amounts-and_aips-may-2014.pdf)

Based on data relating to May 2014 we know that a total of 581,000 people (26% of a caseload of 2,270,000) qualified for the severe disability additional amount,

although this does not include all disabled claimants, for example those in receipt of the care component of disability living allowance at the lower rate.

The following is based on the assumption that a person with a disability may be more likely to need medical treatment and that, in some cases, treatment may be outside Great Britain.

In recognition of the need to protect the benefit entitlement of those who need medical treatment abroad, regulation 4 of the State Pension Credit Regulations 2002 currently provides for a person who is receiving medical treatment outside Great Britain to continue to be treated as being in Great Britain. This allows entitlement to Pension Credit to continue during the absence abroad and also means that the absence of a partner for this reason will not affect the claimant's award of Pension Credit. There is no time limit to this unlike other instances of temporary absence from Great Britain.

This rule is affected by the changes made to the temporary absence from Great Britain rule and will now only allow for an absence of up to 26 weeks for medical treatment.

The change to a 26 week limit will mean that those receiving medical treatment abroad for more than 26 weeks will lose their award of Pension Credit. Those whose partners are receiving treatment for more than 26 weeks are likely to see their awards reduced.

However, we believe this change is justified as Pension Credit is a means-tested benefit intended to support people living in Great Britain – it is not intended to provide indefinite financial assistance to those who are abroad. Reducing the permitted leave to 26 weeks will still provide protection for those receiving medical treatment abroad and the changes to the definition of medical treatment will enable more people to take advantage of this protection than under the old rules. The new provision also extends the scope of the protection by allowing claimants and their partners to be absent in connection with the medical treatment of a child or qualifying young person who normally lives with them. In addition this change will simplify the benefits system by harmonising Pension Credit with Universal Credit, ensuring that claimants are not subject to different rules when transferring between the two benefits.

We have no information on the numbers of Pension Credit claimants who travel abroad to receive medical treatment nor for how long they are absent for. However, it is our view, that a limit of up to 26 weeks should be sufficient to protect the benefit entitlement of those claimants who do require medical treatment outside Great Britain. Figures from Eurostat showing the average length of hospital stays in European countries in 2011 show a period of time far below 26 weeks (source: [http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Average\\_length\\_of\\_stay\\_for\\_hospital\\_in-patients,\\_by\\_age\\_group,\\_2011\\_\(days\)\\_Health2015.png](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Average_length_of_stay_for_hospital_in-patients,_by_age_group,_2011_(days)_Health2015.png)).

For the reasons set out above, to the extent that the provisions in these regulations will have a disproportionate impact on people with disabilities we believe this impact is justified.

## **Characteristic 2 – Race / Ethnicity**

The amendments will apply to all Pension Credit claimants, regardless of their race or ethnicity.

Our analysis suggests that 15% of trips abroad made by people in Great Britain aged 65 and over for periods of 28-90 days are made to Asian countries (source: the International Passenger Survey 2007-2012). The 2011 census shows that 3% of individuals aged 65+ indicated their ethnicity as “Asian / Asian British”.

It is possible that that Asian / Asian British claimants may be disproportionately affected by this change although we do not have any actual figures to confirm or refute this. Anyone affected by this change who was previously allowed 13 weeks absence will now only be entitled to Pension Credit for 4 weeks, although there is the potential for this to be increased to 8 weeks in certain circumstances involving the death of a partner, child or qualifying young person normally living with the claimant, or of a close relative of one of these groups.

While there may be a disproportionate impact on this group, Pension Credit is an income-related benefit and it is intended to provide claimants with financial assistance to enable a minimum guaranteed amount to meet living costs in Great Britain.

It is the Department’s view that the allowance of a 4 week absence is reasonable and justified and allows time, for example, for holidays and visiting families without claimants having to reclaim Pension Credit on their return to Great Britain. This change also aligns Pension Credit and Housing Benefit with Universal Credit and is therefore a move towards simplification in the benefits system. The fact that the 4 week period can be extended up to 8 weeks in connection with the death of a partner, child or close relative means that additional protection is granted to take account of difficult circumstances.

Although there may be some evidence to indicate claimants who are identified as being of Asian ethnicity may be affected more by this amendment than other race / ethnicity groups, the Department believes that reducing the period of a general allowable absence where benefit can still be paid from 13 weeks to 4 weeks is reasonable and returns to the original 4 week rule that applied when Pension Credit was introduced. The period of 4 weeks can be extended in certain circumstances (up to 8 weeks where the absence is in connection with a death of a partner or close relative, up to 26 weeks for medical treatment abroad) and it strikes a fair balance between the objectives of a means tested benefit intended to meet living costs in Great Britain with the family lives of claimants.

### **Characteristic 3 – Religion / Belief**

The analysis above indicates that claimants who are identified as being of Asian ethnicity may be more affected by this amendment than any other race / ethnicity group. This could also mean that this is reflected in a disproportionate impact on certain religious groups, for example Muslims, Sikhs and Hindus.

Much of the reasoning set out above in relation to race and ethnicity is applicable to religion and belief. In addition, it is the Department's view that the allowance of a 4 week absence is reasonable and should allow sufficient time, for example, for pilgrimages or sharing religious festivals with family members abroad, without claimants having to reclaim Pension Credit on their return to Great Britain.

### **Characteristic 4 – Sex**

As of May 2015, the Pension Credit claimant caseload was a total of 2,096,820. The claimant breakdown by gender is:

Female:	1,297,150
Male:	799,670

(source: DWP Tabulation Tool available [www.gov.uk](http://www.gov.uk))

The new legislation will apply to all claimants equally, regardless of their sex. However, because of the greater number of female, as opposed to male, Pension Credit claimants, it is likely that more women than men will be affected by these changes.

However, that impact is due to the composition of the claimant caseload. As female claimants are disproportionately older than men, there may be a differential impact on women as older Pension Credit claimants may be more likely to need medical treatment abroad. However, for the reasons set out in the section on disability, we believe that to the extent there was such an impact it would be justified.

### **Characteristic 5 – Age**

Age is a condition of entitlement for Pension Credit claimants. By virtue of that, this change will affect people of Pension Credit qualifying age (this is linked to women's pensionable age). The change applies to all Pension Credit claimants, regardless of their specific age. The change aligns Pension Credit with Universal Credit and Housing Benefit and the effect is that the same general rules apply to claimants of both working age benefits (like Universal Credit) and pensionable age benefits.

However, it may be the case that older benefit claimants may be more likely to require medical treatment abroad (although we have no data on how many Pension Credit claimants leave Great Britain for medical treatment). For those claimants who do, the changes mean that an absence abroad for up to 26 weeks will allow their entitlement to continue.

In the absence of any data on this, the Department's view is that, to the extent that there is a disproportionate impact on older claimants linked to their needing medical treatment abroad, this would be justified for the reasons set out in the section on disability above.

## **Remaining groups**

DWP has considered equality in respect of the introduction of this change on the remaining "protected characteristic" groups below, but there is no data or analysis available in order to assess the impact of the policy on these groups:-

- Gender reassignment
- Pregnancy and maternity
- Sexual orientation

## **Decision making**

The Department undertook analysis aimed at determining Pension Credit claimants, with reference to Gender, Disability, Race and Age. The analysis showed that the potentially affected group would be more likely to be women claimants. The analysis also showed that more Asian / Asian Britons could be affected. Analysis of the proportion of 28 – 90 day visits to Asian countries suggests that this ethnicity may be more likely to take temporary absence over the affected period of time and so due to the policy change may be more likely to be impacted

However, the impacts on these affected groups are due to the profiles of the current Pension Credit claimants, rather than changes in the policy. From 1<sup>st</sup> April 2016, the reduction in the length of time a claimant can be temporarily absent outside GB will apply to all Pension Credit claimants regardless of their protected characteristics.

## **Monitoring and evaluation**

DWP is committed to monitoring the effects of its policies and we will use evidence from a number of sources on the experiences and outcomes of the protected groups. We will use administrative datasets to monitor trends in the benefit caseloads for some of the protected groups and in the level and distribution of benefit entitlements. The administrative data will provide robust material for age and gender although not, as a rule, for the other protected groups.

We will use feedback from stakeholder groups to assess whether there are unintended consequences for the protected groups, and whether the policy itself results in adverse consequences for particular groups.

As part of our actions in the context of the data requirements under the Equality Act, we are looking across DWP activities to identify and address further gaps in data provision wherever reasonable.



# When will the potential impacts be reviewed?

DWP decision makers have access to processes and guidance to ensure they can report problems should they occur.

## Sign off

Andrew Latto, Deputy Director, Ageing Society & State Pensions, Department for Work and Pensions.

## **Family Test: Reducing Temporary Absence outside GB period from 13 weeks to 4 weeks in line with UC policy**

This is an assessment of the impact of the amendments to the temporary absence from GB regulations on families. The current Housing Benefit regulations for working age and pension age claimants allow a claimant to be absent from their home for up to 13 weeks regardless of whether this is within or outside GB. In certain circumstances the absence can be for up to 52 weeks e.g. where the claimant is receiving medical treatment or accompanying a partner or child who is receiving medical treatment.

The new policy applies only to absences outside GB and reduces the period allowed from 13 to 4 weeks or for the extensions to the usual rules, the period will be reduced to 26 weeks from 52 weeks in most cases but not all. The new policy will apply to new HB claimants as well as current claimants.

### **1. What kinds of impact might the policy have on family life?**

This policy will have a minimal impact on family life because the changes only apply to absences outside GB. Those families who need to go overseas for medical treatment or medically approved convalescence, for any of the members including children, will be allowed to be absent for 26 weeks. This should ensure that families are able to be together without worrying about losing their home and alleviate some of the stress and pressure on them at a difficult time in their lives.

### **2. What kind of impact will the policy have on families going through key transitions such as becoming parents getting married, fostering or adopting, bereavement, redundancy, new caring responsibilities or the onset of a long-term health condition?**

This new policy only applies to absences outside GB and therefore will have only a low impact on families going through key transitions where these happen within GB. Even where key transitions occur outside GB the policy allows, for example, an extension to the usual time allowed where the temporary absence is in connection with the death of the person's partner or a child or a young person.

### **3. What impacts will the policy have on all family members' ability to play a full role in family life, including with respect to parenting and other caring responsibilities?**

The policy allows for the claimant to accompany their partner and or child outside GB if the partner or child needs medical treatment and the period allowed is extended to 26 weeks rather than the new policy of 4 weeks. Therefore, the policy ensures that the HB claimant can play a full role in family life. As before the policy change only applies to absences outside GB and makes no change to the time people can be absent within GB.

### **4. How does the policy impact families before, during and after couple separation?**

The policy reduces the period that a claimant can be absent outside GB but not the period that a claimant can be absent within GB and therefore, it is unlikely to add to the pressures families face before and during the period when a couple separate unless the family regularly spends time with extended family members outside GB. It could cause problems after separation if the member of the couple with care of the children moves outside GB which could include moving to Northern Ireland. If the claimant wants to visit their children outside GB they will be limited to 4 weeks which could be a problem if they have moved some distance from GB so can only visit them occasionally for long periods rather than visiting regularly for short periods.

**5. How does the policy impact those families most at risk of deterioration of relationship quality and breakdown?**

The families who will be impacted most by this policy will be those where one partner is a victim of domestic violence and flees to a place of safety outside GB. This could mean that women, who are generally more likely to be the victims, stay with an abusive partner rather than seek safety overseas. However, this would only impact them if they are the HB claimant not their spouse/ partner unless they have taken on a tenancy and are now also claiming HB.

## **Temporary Absence from GB Amendments – Family Test**

This is an application of the Family Test to the proposed change to the Temporary Absence from GB rules in Pension Credit using the guidance produced by the Department dated October 2014

(<https://www.gov.uk/government/publications/family-test-assessing-the-impact-of-policies-on-families> )

### **1. What kinds of impact might the policy have on family formation?**

The policy has no impact on couple relationship formation. In order for a couple to be entitled to Pension Credit, they must already be members of the same household. This amendment does not change that requirement. Pension Credit is an adult only benefit with no additional amounts paid in respect of children. This policy does not change that.

### **2. What kind of impact will the policy have on families going through key transitions such as becoming parents, getting married, fostering or adopting, bereavement, redundancy, new caring responsibilities or the onset of a long-term health condition?**

The policy allows an absence abroad from GB for up to 8 weeks (an extension on the proposed new basic rule of 4 weeks) where the absence is in connection with the death of a family member or close relative. Where the absence is in connection with medical treatment abroad, the allowable absence is up to 26 weeks. This allows a reasonable length of time outside of GB for those situations whilst still maintaining entitlement to the benefit.

The policy will have no impact on becoming a parent, getting married, fostering or adopting, redundancy or new caring responsibilities.

### **3. What impacts will the policy have on all family members' ability to play a full role in family life, including with respect to parenting and other caring responsibilities?**

The policy will have no impact on playing a full role in family life in GB. The amendments only restrict the time abroad where entitlement to Pension Credit can continue. The policy does allow Pension Credit claimants to visit family (in the looser sense of the word) members abroad for up to 4 weeks as many times as they may like.

### **4. How does the policy impact families before, during and after couple separation?**

The policy will have no impact on couple separation. There is no change to the Couple / "household" test.

### **5. How does the policy impact those families most at risk of deterioration of relationship quality and breakdown?**

The policy has no impact on families most risk (e.g. alcohol dependency, gambling, domestic violence, imprisonment etc).

Jason Westerman  
Pension Credit Policy  
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