

The Housing Benefit (Abolition of the Family Premium and date of claim) (Amendment) Regulations 2015

(S.I. 2015 No. 1857)

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

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

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The Housing Benefit (Miscellaneous Amendments) Regulations 2015: Government response to the Social Security Advisory Committee's formal response of 12 October 2015

The Department welcomes the Social Security Advisory Committee's consideration of the draft regulations for two of the Housing Benefit measures announced in the Summer Budget – time-limiting the backdating of new claims to Housing Benefit to one month, and removing the Family premium for new claims to Housing Benefit made on or after 1st May 2016.

The Committee correctly highlight that the policy rationale behind both of these changes are twofold – to secure cost savings, and to bring forward aspects of Universal Credit into Housing Benefit to provide some alignment between the two benefits as claimants start to transition from Housing Benefit on to Universal Credit.

The Committee has made two specific recommendations:

Limiting the backdating period from six months down to one month

“...We recommend that, if the Government still wishes to make an early reduction in the backdating period, a three month period would strike a better balance between the aim of securing an expenditure saving and recognition of the substantial differences between the HB legacy and UC positions...”

As outlined above the policy intention is to align the Housing Benefit treatment with that in Universal Credit. By the time that these regulations come into force the vast majority of new claims to benefit from working age claimants will be for Universal Credit. This change will ensure that the backdating rules applied to all new claims for housing support from working age people will be equitable.

You correctly note that the other working-age income-related benefits will continue to apply a three month backdating period under the rules specific to those benefits. The effect of this is that the Housing Benefit entitlement will be linked to that backdating period provided that the Housing Benefit claim is made within one month of the claim for the other income-related benefit. This effectively allows the Housing Benefit claim date to follow the backdating in the other benefit. Those affected who don't have the potential to be passported in this way will be those with other income, including earnings, who do not qualify for another income-related benefit.

The Department has noted the Committee's comment that the three month period should be available to all those affected. We remain of the view that the arguments are not compelling for retaining an additional two, or five month period during which entitlement to support for housing costs can be backdated for an increasing minority of new claims to benefit.

The Committee's report assumes that the move from six to one month backdating will automatically lead to tenants falling into rent arrears. While the Department accepts that this may be a risk for some of those affected, depending on their individual circumstances, we do not accept the assertion of a direct causal link. Further, we know from our independent evaluation of the Housing Benefit changes from the 2010 Emergency Budget that when similar claims were made about their likely effects, the reality was that they didn't materialise.

Introducing linking rules for retaining the family premium

“...We...recommend that the Government amends the proposals to provide linking rules to address issues such as moves between areas, temporary increases in income, domestic violence and death of a partner...”

The Department notes the Committee's comment that linking rules apply in existing benefits. Linking rules are a feature of the overly complex legacy benefits that we are currently replacing with the Universal Credit. The new benefit doesn't retain the anomalies of the old legacy system, including linking rules.

Since 2010 our policy has been to move away from building new linking rules into our reforms to Housing Benefit. Instead we have added significant new funding to Discretionary Housing payments to ensure that those affected by the changes are supported as they adjust to the transition. In the Summer Budget the Chancellor of the Exchequer announced that £800m of new Discretionary Housing Payment funding will be available across this Parliament to support on-going and new reforms to Housing Benefit. Those affected by this measure will be able to apply for discretionary payments. We remain of the view that building linking rules into Housing Benefit for this measure isn't the most appropriate way of supporting vulnerable cases affected by this change.

In conclusion, we don't agree with the Social Security Advisory Committee on these two issues, though we are grateful to them for their careful consideration of these regulations.

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

12 October 2015

Dear Secretary of State,

The Housing Benefit (Miscellaneous Amendments) Regulations 2015

The Committee considered the above draft regulations at its meetings on 2 September and 7 October.

The draft regulations make changes to the legacy arrangements for claims to Housing Benefit (HB) during the period prior to the full roll-out of Universal Credit (UC). They are designed to:

- limit the extent to which a claim to HB can be backdated. The current rule is that a person who, throughout the past period in question, shows continuous good cause for failing to make a timeous claim can receive HB backdated to a maximum of six months. Under these proposals the six month period will reduce to one month from April 2016; and
- remove the family premium¹ from new claims for HB with effect from 1 May 2016. It will also affect existing claimants who, from that same date, would otherwise have received the family premium because of a change in circumstances.

A limited amount of material was presented to the Committee in the Department's explanatory memorandum and other summary documentation. This indicated that the rationale for these proposals was to secure cost savings and promote early alignment for legacy claims to HB with the future arrangements for Universal Credit, which does not have a family premium or equivalent and for which there will be a one month backdating period.

Following its initial scrutiny of the draft regulations in September the Committee concluded that - given the limited analysis presented on their likely impact and the limited evidence of effective consultation with local authorities and other stakeholders - it wished to consider these issues more fully.

As the Committee already had a clear view of the issues it wanted to explore further, and mindful of the Government's aim to introduce the draft regulations quickly, the Committee decided it would not be necessary to undertake a full public consultation to help inform this process. Instead we convened a workshop attended by representatives of organisations and charitable bodies which have a particular knowledge of this area. In the light of the further consideration we have now given to the draft proposals, informed by that workshop, the Committee has decided to take them on formal

¹ An additional amount of £17.40 included where the claimant or the claimant's partner has responsibility for a child or young person.

reference in accordance with Sections 173 and 174 of the Social Security Administration Act 1992. This report now sets out our formal response.

We are grateful to those who attended our workshop and shared their considered views and evidence which has helped inform our conclusions. A list of attendees is held at appendix 2.

We are also grateful to the Department's officials who presented the draft proposals to us both at our meetings and subsequently during the preparation of this report.

An overview

The Committee recognises that these proposals were included in the wider package of savings in social security costs set out in the July 2015 Budget. The limiting of backdating for HB claims was estimated at that time to save £10 million in 2016-17 with negligible or zero impact in later years. The removal of family premium from HB was estimated to save £55 million in 2016-17 rising to £65 million in 2017-18, before tailing off significantly over the following three years, becoming negligible by 2020-21.

While there is an important taxpayer interest to consider here, the Committee is concerned that the summary rationale given for the proposals - namely early alignment with UC - is too simplistic and potentially misleading. For some claimants, particularly those in more vulnerable groups, the implementation of the HB changes will not provide a smooth or seamless transition to the position they will face under UC, nor will it align their amended legacy HB position with that faced by similar claimants in earlier stages of UC roll-out.

The HB/legacy benefit landscape is much more complex and difficult for claimants to navigate than the UC position, which gives strong grounds for a longer backdating period during this transition. In relation to family premium UC will allow linking and continuity of claim where there is a temporary increase in income or re-location to another local authority area; that will not be available under these HB proposals which will have a negative impact on work incentives. These aspects raise issues around income stability and security that need to be balanced against the interests of taxpayers.

Backdating

The administrative challenges faced by local authorities administering HB claims and having to liaise with jobcentres and call centres which handle a national benefit are very considerable. It is almost inevitable that delays, oversights and mistakes will continue to feature in the experience of claimants seeking to navigate this legacy system, and claimants should not lose out where the system does not work as intended. Indeed the streamlined and integrated operation of UC is in part intended to address these legacy problems and therefore will facilitate a shorter backdating period; that enablement will not be available for continuing legacy claimants

Some claimants may of course be responsible for the failure to submit a claim with all the evidence required to support it. But this needs to be set in a context where, from anecdotal evidence provided by those who attended the workshop, it appears that a disproportionate number of claimants asking for their HB to be backdated suffer from mental health and other vulnerabilities. Such claimants may, for example, be rehoused at a location away from a familiar support network which would have otherwise provided assistance through the process of making a claim.

The argument that the backdating rule in HB should align with UC rules is also not wholly consistent. The continuous good cause rule will continue to apply in HB while UC has a prescribed set of alternative circumstances and a provision which means that, if a claimant is reasonably prevented from claiming earlier because one or more of those circumstances applied in the claimant's case, the claim can be backdated. There will also be inconsistency of treatment between those who make a late claim for Income Support or income-based Jobseeker's Allowance which, together with a passported claim for HB, could be backdated for three months; whereas those who are entitled to HB

alone will only be able to go back one month. All these inconsistencies are hard to defend and add to the complexity which claimants are required to navigate.

It is disappointing that local authorities, landlords in the social and private sector, voluntary and charitable bodies and others who will be impacted by these changes appear not to have been consulted in any significant way about the implementation of these proposals. For people whose rent is paid monthly or four weekly in arrears the proposal will mean there is no slack in the current complex legacy benefit context for them to realise there is a problem with their HB entitlement and to make a late claim. This presents a clear risk that the impact of this on landlord and tenant behaviour could result in upward pressure on homelessness among the more vulnerable, with attendant costs which could offset the projected savings. It is disappointing there has been no cost/benefit analysis of these aspects.

Neither has any analysis or data has been presented by the Department about the periods for which backdating is currently being claimed and awarded. This makes it difficult to assess the effect of reducing backdating by different amounts from the current six months. However our workshop consultation revealed that earlier this year Centrepoint undertook a survey of over 800 young people using their services. They found that 78 per cent of those who made a late claim for HB were not seeking backdating for a period longer than three months. The majority of backdating claims could therefore be accommodated within a three month period. Reducing it further could, however, have a financial impact on a sizeable group of vulnerable young people, potentially causing hardship to those least able to withstand it.

We conclude that, for the reasons set out above, the position faced by HB legacy claimants – particularly the more vulnerable - is substantially different and more challenging than the position following migration to UC; that in the absence of a robust impact assessment the case for simple alignment with a one month backdating rule has therefore not been made; and that there is a significant risk of offsetting additional costs to the estimated one year saving of £10 million if the proposal is pursued in this form. We recommend that, if the Government still wishes to make an early reduction in the backdating period, a three month period would strike a better balance between the aim of securing an expenditure saving and recognition of the substantial differences between the HB legacy and UC positions.

Family premium

The Committee recognises there will be no family premium under UC. However that is not the same as saying that removing family premium from legacy HB cases will place claimants in the same position as they will be once they are migrated on to UC.

The Department states that withdrawing family premium in HB will 'promote better work incentives'. But in practical terms, some legacy claimants will permanently lose the premium if they temporarily increase their hours and therefore could be deterred from doing so. Equally, some will be deterred from moving address to secure or look for work if it means a drop in HB. Others could be discouraged from taking short term work (eg over Christmas) if it means a drop in HB; the current rapid reclaim system has reassured people it is worth doing so, but this proposal will undermine that flexibility.

By way of illustration, The Peabody Trust told us about a client who cares for her severely disabled mother and who is a lone parent in part-time work. Should she need to make a repeat HB claim at some stage after May 2016, she would lose the £17.40 family premium. That would amount to a reduction of around just over £11 a week, allowing for the effect of the taper. After taking account of travelling costs she would need over 11 hours of extra work a week to make good the shortfall. In her case there would therefore be a strong incentive to remain on HB and not put herself in the position of having to make a reclaim if her hours reduce again in the future.

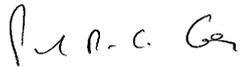
The absence of any kind of linking rules in the proposal, for example for moves between local authority areas, additionally means that an individual claimant may lose the family premium in circumstances that are not of their own making. For example, we understand that the current policy

of some local authorities and social landlords responsible for rehousing victims of domestic violence is to move them to a different local authority area to minimise the risk that they would run into their assailant. Those organisations now face a fairly stark choice in terms of whether to keep the existing policy in the knowledge that the victim is likely to be financially worse off, or whether to rehome them within the existing local authority area where they may be at greater risk.

The premium would also be lost following the death of a claimant and where their surviving partner makes a new claim (even though the second award would, in all probability, begin immediately after the first award had ended). In all these examples, the family premium would no longer be paid although entitlement to HB would continue unbroken.

Linking rules have been a longstanding feature of social security legislation where benefit is effectively being reduced. We are unclear why the Department has not built in any linking rule to these proposals, and are very far from persuaded by the argument that different administration of HB in local authority areas makes it impossible to link claims between two areas.

We therefore recommend that the Government amends the proposals to provide linking rules to address issues such as moves between areas, temporary increases in income, domestic violence and death of a partner. This would remove the undesirable work disincentives, and move the legacy HB proposals closer to the position that will operate under UC, while still being consistent with expenditure savings for genuine new claims during the migration to UC.



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

SSAC workshop on 29 September: attendees

Alice Ashworth	Crisis
David Ayre	The Children's Society
Daniel Dumoulin	St Mungo's Broadway
Richard Exell	TUC
Kevin Garvey	Shelter
Moussa Haddad	Child Poverty Action Group
Danny Hardie	Peabody Trust
Merlyn Holkar	Contact a Family
Sam Lister	Chartered Institute of Housing
David Lock	Local Government Association
Paul Noblet	Centrepont
Sue Ramsden	National Housing Federation
Ben Robinson	Community Links
Neera Sharma	Barnardo's
Paul Treloar	Child Poverty Action Group
Paul Gray	Chair of SSAC
Colin Godbold	SSAC member
Chris Goulden	SSAC member
Seyi Obakin	SSAC member
Denise Whitehead	Committee Secretary
Michael Coombs	Assistant Secretary
Paul Mackrell	Assistant Secretary



Department
for Work &
Pensions

Housing Policy Division
3rd Floor
Caxton House
Tothill Street
London SW1H 9NA

Phone 0207 449 5343
Fax -
Mobile If required

www.gov.uk

Denise Whitehead
Social Security Advisory Committee
5th Floor
Caxton House
London
SW1W 9NA

20 August 2015

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 (SI 2006/213)**
- **the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (SI 2006/214)**

With the following changes providing alignment with Universal Credit:

- **To abolish the family premium for all new HB entitlements arising on or after the coming into force date stipulated in this instrument, and for those who cease to have responsibility for any children or young people on or after that date; and**
- **To reduce the period a working age Housing Benefit claim can be backdated.**

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.

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

The Department has been consulting with the Local Authority Associations throughout August to advise them of the proposed changes. The outcomes will be conveyed to the Committee at the meeting.

Yours sincerely

Darran Nuttall
Housing Policy Division

Amendments to the Housing Benefit Regulations 2006 and the Housing Benefit (persons who have attained the qualifying age for State Pension Credit Regulations 2006 to abolish the Family Premium)

The Family Premium is currently an addition to the Housing Benefit (HB) applicable amount. The applicable amount is used in calculating HB entitlement, principally for claimants who do not have linked entitlement to full eligible HB because they are in receipt of another income-related benefit. For such claimants, the amount of HB entitlement is calculated by applying the income taper (65%) to any income in excess of the applicable amount.

Under the new policy, the Family Premium would not be included in the HB applicable amount for new HB entitlements arising after April 2016, and for any existing claimants who have a first child or become responsible for a child (i.e. under 16) or young person (i.e. under 20) after April 2016. It would also mean that if a current claimant ceases to have responsibility for any children or young people, then Family Premium will no longer be applied if they become responsible for such a person in the future.

The policy would simplify the complex HB system by removing one of the many premiums, thus providing an easement to LAs who incur costs administering HB. The policy would promote better work incentives, providing alignment with Universal Credit which does not have a Family Premium or equivalent.

Amendments to the Housing Benefit Regulations 2006 (date a claim is treated as made)

Under current rules, working-age HB claimants may have their HB claim treated as made from a date up to 6 months before they make their claim for HB if they can show 'continuous good cause' for the delay in making the claim. Universal Credit backdating is limited to one month. HB would be brought into line with this, whilst retaining the requirement to demonstrate good cause for failing to make the claim.

This change would introduce equality for working age claimants by aligning HB rules with the Universal Credit approach. The measure would still provide for a month backdating period provided (as with current regulations) continuous good cause can be shown. State Pension Age regulations would remain unchanged.

Officials will attend the Committee's 2nd September meeting to answer any queries members may have and we will be happy to provide any further information they may require.

EXPLANATORY MEMORANDUM TO THE SOCIAL SECURITY ADVISORY COMMITTEE

The Housing Benefit (Miscellaneous Amendments) Regulations 2015

Introduction

1. The Department proposes to amend the following sets of Regulations:
 - the Housing Benefit Regulations 2006 (SI 2006/213); and
 - the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (SI 2006/214).
2. These amendments are intended to make two changes to provide alignment with Universal Credit. These are as follows:
 - i) abolition of the Family Premium for all new entitlements to Housing Benefit (HB) arising on or after 1st May 2016; and for those who cease to have responsibility for a child(ren) or young people on or after that date; and
 - ii) from April 2016, the period a working age HB claim can be backdated will be reduced.

Abolition of the Family Premium

3. Amendments will be made to:
 - the Housing Benefit Regulations 2006; and
 - the Housing Benefit (persons who have attained the qualifying age for State Pension Credit) Regulations 2006.
4. Claimants in receipt of an income related-benefit (i.e. Income Support, income-based Jobseeker's Allowance or income-related Employment and Support Allowance) have automatic entitlement to full eligible HB. For those that do not have such a linked entitlement, an "applicable amount" is used to calculate the amount of the claimant's HB entitlement. The Family Premium is currently an addition within that applicable amount if the claimant has responsibility for children or young people.
5. An income taper (65%) applies to any income in excess of the applicable amount.
6. It is intended that from 1st May 2016 the Family Premium will no longer be included in the HB applicable amount for new entitlements to HB arising on or after that date. This includes new claims that are made due to a change in local authority area.
7. For claimants who are entitled to the Premium on 30th April 2016 and move within a local authority's area, as they do not have to make a new claim following their move, they are treated as having continuous entitlement to HB. So, they would retain their entitlement to the Premium long as they remain responsible for a child (or young person) or until their current HB entitlement ends.

8. These rules avoid over-complication by providing a simple, easy to understand and administer set of principles.

9. Existing claimants who have responsibility for a child (i.e. under 16) or young person (i.e. under 20) will continue to receive the Family Premium until that responsibility ceases, or the HB claim ends. Once this has occurred the Family Premium will not be reinstated if the claimant or partner become responsible for such a person in the future.

10. Removing the Family Premium helps to simplify the overly-complex HB system, as there are a number of premiums that LAs must consider, and should therefore reduce administration costs. The policy will provide alignment with Universal Credit (which does not have a Family Premium or equivalent) thereby helping the eventual transition process.

Reduction of the backdating period

11. Amendments will be made to the Housing Benefit Regulations 2006.

12. Under current rules, working-age HB claimants may have their HB claim treated as made from a date up to 6 months before they make their claim for HB, but only if they can show 'continuous good cause' for the delay in making their claim. Universal Credit backdating is limited to one month. It is intended to equalise HB with UC, to ensure equality of treatment for all working age claimants, whilst retaining the requirement to demonstrate good cause for failing to make the claim. This provides continuity of approach for local authority decision makers within the HB backdating provision, as well as retaining the power to consider each case of its individual merits.

13. State Pension Age regulations will remain unchanged.

Considerations

14. The policy intention is to provide an alignment of HB rules with those in Universal Credit, which has a one month backdating rule, and which does not contain an equivalent to the Family Premium.

15. The changes to the Family Premium will be effective from the 1st May 2016. Existing HB cases that include the Premium on 30th April 2016 will retain entitlement to it until one of the events described in paragraphs 6 to 9 occurs, this giving existing claimants a reasonable degree of protection.

16. We intend to introduce the backdating rule in April 2016 (the actual date to be confirmed). Other rules which link the HB date of claim to the date of claim for Income Support, income-based Jobseeker's Allowance and income-related Employment and Support Allowance will remain unchanged.¹

The Regulations

Draft Regulation 1

17. Draft Regulation 1 provides the coming into force date. This has yet to be confirmed, but is planned for April 2016.

Draft Regulation 2

18. Draft Regulation 2 removes the Family Premium from the Housing Benefit Regulations 2006.

¹. Housing Benefit Regulations provide that, where a claim to HB has been made within 1 month of the date of claim to IS, JSA(IB), or ESA(IR) and there is entitlement to one of those benefits, then the HB date of claim can be treated as the first day of entitlement to that benefit.

19. Draft Regulations 2(2) and (3) remove the Premium from the applicable amount provisions. Regulation 2(3) relates to the provision covering applicable amounts for polygamous marriage cases.

20. Draft Regulation 2(4) removes the Family Premium from Schedule 3 to the regulations, which contains the qualifying conditions for the Housing Benefit premiums.

21. Draft Regulation 2(5) replaces the current reference to “Family Premium” in paragraph 17 of Schedule 4 to the HB regulations with an equivalent reference to ensure continuity of treatment of this provision. This provides an additional earnings disregard for some working claimants: i.e. those who qualify for a 30-hour element in the calculation of the working tax credit, or those working sufficient hours as set out elsewhere in this provision.

22. Draft Regulation 2(6) replaces the current reference to “Family Premium” in paragraph 47 of Schedule 5 to the HB regulations with an equivalent reference to ensure continuity of treatment of this provision. This provides a £15 per week disregard of spousal maintenance.

23. A common approach has been adopted to the amendments to paragraph 17 of Schedule 4 and paragraph 47 of Schedule 5. This does mean that there is a slight tightening of the coverage of the latter, in that polygamous marriage cases would no longer be covered by it. We anticipate however that the numbers of polygamous marriage cases with spousal maintenance payments is likely to be very low (if any).

Draft Regulation 3

24. This regulation makes amendments to the Housing Benefit (persons who have attained the qualifying age for State Pension Credit) Regulations 2006 equivalent to the ones made by regulation 2.

Draft Regulation 4

25. This regulation substitutes a new sub-paragraph (12A) of regulation 83 of the Housing Benefit Regulations to provide that a claim to Housing Benefit can be treated as made on month earlier than the actual date of claim, rather than the current 6 months.

Draft Regulation 5

26. This regulation is a savings provision which provides that claimants entitled to the Family Premium on 30th April 2016 (ie regulation 5(1)) will remain entitled to it until one of the events in regulation 5(2) occurs.

Research, monitoring and evaluation

27. 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.

Marketing/Information strategy and communications

28. Local Authority staff will be notified of the change in guidance.

Impact Assessment

Equality and diversity

29. A separate Equality Analysis is attached.

Complexity

30. These changes are intended to align and simplify HB. There might be some extra administration for local authorities for an interim period arising from dealing with those cases where the savings provisions preserve entitlement to the Family Premium. We are working with the Local Authority Associations and IT supplier to assess those.

Operations

31. We are exploring whether IT changes are required.

Claimants

32. We believe that the backdating period will be transparent, and provides continuity before they move to Universal Credit. Similarly, Family Premium will not form part of HB for new entitlements from 1st May 2016. Claimants will not be required to answer more questions, provide more information and evidence or undertake new activities.

Business/ local government

33. These proposed regulations will not impact on business or on local government.

2015 No.

SOCIAL SECURITY

The Housing Benefit (Miscellaneous Amendments) Regulations 2015

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

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(d), 135(1), 136(1), (3) and (5), 137(1) and 175(1), (3) and (4) of the Social Security, Contributions and Benefits Act 1992(a) and sections 5(1)(b), 189(1) and (5), and 191 of the Social Security Administration Act 1992(b).

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

[The Social Security Advisory Committee have agreed that that the proposals in respect of these Regulations should not be referred to it(c).]

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.

-
- (a) 1992 c.4. Sections 136 and 137 were repealed, to the extent that they related to Council Tax Benefit, by the Welfare Reform Act 2012 (c.5), Schedule 14, paragraph 1 with effect from 1 April 2013 and subject to savings and transitional provisions in articles 9 and 10 of S.I. 2013/358. Section 137(1) was amended by the Civil Partnership Act 2004 (c.33) Schedule 24, paragraph 46(2). Section 175 (1) was amended by the Social Security Contributions (Transfer of Functions etc.) Act 1999 (c.2), Schedule 3, paragraph 29(2) and section 175(5) was amended by the Social Security (Incapacity for Work) Act 1994 (c.18), Schedule 1 paragraph 36.
- (b) 1992 c.5. Section 189(1) was amended by the Social Security Contributions (Transfer of Functions etc.) Act 1999, Schedule 3 paragraph 57(2) and the Tax Credits Act 2002 (c.21), Schedule 6, paragraph 1. Section 189(4) was amended by S.I. 2013/252 and section 189(6) was amended by S.I. 2013/252.
- (c) See section 173(1)(b) of the Social Security Administration Act 1992.
- (d) Section 176(1) was amended by the Local Government Finance Act 1992, Schedule 9, paragraph 23, the Child Support, Pensions and Social Security Act 2000 (c.19), section 69(6), and the Housing Act 1996 (c.52), Schedule 13, paragraph 3(4). Section 176 was repealed, to the extent that it related to Council Tax Benefit, by the Welfare Reform Act 2012, Schedule 14, paragraph 1 with effect from 1 April 2013 and subject to savings and transitional provisions in articles 9 and 10 of S.I. 2013/358.

Citation and commencement

1. These Regulations may be cited as the Housing Benefit (Miscellaneous Amendments) Regulations 2015 and come into force on ***.

Amendments to the Housing Benefit Regulations 2006 (abolition of the family premium)

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

(2) Omit paragraph (c) from Regulation 22 (applicable amounts)(b).

(3) Omit paragraph (d) from Regulation 23 (polygamous marriages)(c).

(4) Omit Part 2 of Schedule 3 (family premium)(d).

(5) In paragraph 17(2)(b)(ii)(bb) of Schedule 4 (sums to be disregarded in the calculation of earnings) for “his applicable amount includes a family premium under paragraph 3 of Schedule 3” substitute “his family includes at least one child or young person.”

(6) In paragraph 47(1) of Schedule 5 (sums to be disregarded in the calculation of income other than earnings)(e) for “Where a claimant’s applicable amount includes an amount by way of family premium,” substitute “Where a claimant’s family includes at least one child or young person.”

Amendments to the Housing Benefit (persons who have attained the qualifying age for State Pension Credit) Regulations 2006

3.—(1) The Housing Benefit (persons who have attained the qualifying age for State Pension Credit) Regulations 2006(f) are amended as follows.

(2) Omit sub-paragraph 1(c) from Regulation 22 (applicable amounts)(g).

(3) Omit Part 2 of Schedule 3 (family premium)(h).

(4) In paragraph 9(2)(b)(ii)(bb) of Schedule 4 (sums disregarded from claimant’s earnings) for “his applicable amount includes a family premium under paragraph 3 of Schedule 3” substitute “his family includes at least one child or young person.”

(5) In paragraph 20(1) of Schedule 5 (amounts to be disregarded in the calculation of income other than earnings) for “Where a claimant’s applicable amount includes an amount by way of family premium,” substitute “Where a claimant’s family includes at least one child or young person.”

Amendments to the Housing Benefit Regulations 2006 (date a claim is treated as made)

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

(2) For paragraph (12A) of Regulation 83 (time and manner in which claims are to be made)(i) substitute—

“(12A) That date is the latest of—

(a) the first day from which C had continuous good cause;

(b) the day one month before the date the claim was made; or

(c) the day one month before the date when C requested the claim should include a past period.”

-
- (a) S.I. 2006/213.
- (b) Regulation 22 was amended by S.I. 2008/1082 and S.I. 2010/1907.
- (c) Regulation 23 was amended by S.I. 2008/1082 and S.I. 2010/1907.
- (d) Part 2 of Schedule 3 was amended by S.I. 2008/1042, S.I. 2009/583, S.I. 2011/2425 and S.I. 2014/516.
- (e) Paragraph 47 of Schedule 5 was amended by S.I. 2008/1042.
- (f) S.I. 2006/214.
- (g) Regulation 22 was amended by S.I. 2008/1042 and S.I. 2011/2425.
- (h) Part 2 of Schedule 3 was amended by S.I. 2011/2425 and S.I. 2014/516.
- (i) Sub-paragraph (12A) was inserted by S.I. 2010/2449.

Savings

5.—(1) The amendments in regulations 2 and 3 do not apply to a person who, on 30th April 2016—

- (a) is entitled to housing benefit; and
- (b) is either—
 - (i) a member of a family^(a) of which at least one member is a child or young person; or
 - (ii) in the case of a polygamous marriage the person is, or another partner of the polygamous marriage is, responsible for a child or young person who is a member of the same household, until the first of the events in paragraph (2) occurs.

(2) The events are—

- (a) the person makes a new claim for housing benefit;
- (b) the person ceases to be a member of a family of which at least one member is a child or young person; or
- (c) the person is polygamously married and all the partners in the polygamous marriage cease to be treated as responsible for a child or young person in accordance with whichever of regulation 20 of the Housing Benefit Regulations 2006 or regulation 20 of the Housing Benefit (persons who have attained the qualifying age for State Pension Credit) Regulations 2006 applies to that person.

(3) For the purpose of this regulation—

“child” has the same meaning as in regulation 2 of the Housing Benefit Regulations 2006”;

“polygamous marriage” has the same meaning as in regulation 2 of the Housing Benefit Regulations 2006”;

“young person” has the same meaning as in regulation 2 of the Housing Benefit Regulations 2006”.

Date

Name
Parliamentary Under Secretary of State
Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations amend the Housing Benefit Regulations 2006 (S.I. 2006/213) and the Housing Benefit (Persons who have attained the qualifying age for State Pension Credit) Regulations 2006 (S.I. 2006/214). The amendments amend how a claimant’s applicable amount is calculated and amend the Housing Benefit Regulations 2006 to reduce the period of which a claim can be backdated.

Regulation 2 amends to Housing Benefit Regulations 2006 by abolishing the Family Premium contained in Part 2 of Schedule 3 to those regulations, and making amendments consequential on the abolition of that premium. Regulation 3 makes similar amendments to the Housing Benefit (Persons who have attained the qualifying age for State Pension Credit) Regulations 2006.

(a) “Family” is defined in section 137(1) of the Social Security Contributions and Benefits Act 1992.

Regulation 4 amends regulation 83(12A) of the Housing Benefit Regulations 2006 to shorten the period a claim for housing benefit can be backdated from six months to one month.

Regulation 5 contains savings provisions. The provisions provide that the amendments in regulations 2 and 3 do not apply to a person who, on 30th April 2016, is entitled to housing benefit and is either: a member of a family that contains at least one child or young person; or in the case of a polygamous marriage, is or another partner of the marriage is responsible for a child or young person who is a member of the same household, until either: the person makes a new claim for housing benefit; the person ceases to be a member of a family where at least one member is a child or young person; or, in the case of a polygamous marriage, all the members of the polygamous marriage cease to be treated as responsible for a child pursuant to regulation 20 of either the Housing Benefit Regulations 2006 or the Housing Benefit (persons who have attained the qualifying age for State Pension Credit) Regulations 2006 (whichever applies to that person's case).

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

Housing Benefit (Miscellaneous Amendments) Regulations 2015

Keeling Version

Housing Benefit Regulations 2006 (SI 2006/213)

Regulation 22. Applicable amounts

Subject to regulations 23, 24, 80 and 81 and Schedule A1 (polygamous marriages, patients, calculation of weekly amounts, rent free periods and treatment of claims for housing benefit by refugees), a claimant's weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case—

(a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1(1), (2) or (3), as the case may be, of Schedule 3;

(b) an amount determined in accordance with paragraph 2 of Schedule 3 in respect of any child or young person who is a member of his family;

~~(c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part 2 of Schedule 3 (family premium);~~

(d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of Schedule 3 (premiums).

(e) the amount of either the—

(i) work-related activity component; or

(ii) support component,

which may be applicable to him in accordance with Part 5 of Schedule 3 (the components).

(f) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of Schedule 3 (transitional addition).

Regulation 23. Polygamous marriages

Subject to regulations 24, 80 and 81 and Schedule A1 1(patients, calculation of weekly amounts, rent free periods and treatment of claims for housing benefit by refugees), where a claimant is a member of a polygamous marriage, his weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case—

(a) the highest amount applicable to him and one of his partners determined in accordance with paragraph 1(3) of Schedule 3 as if he and that partner were a couple;

(b) an amount equal to the difference between the amounts specified in sub-paragraphs (3)(b) and (1)(b) of paragraph 1 of Schedule 3 in respect of each of his other partners;

(c) an amount determined in accordance with paragraph 2 of Schedule 3 (applicable amounts) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household;

~~(d) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part 2 of Schedule 3 (family premium);~~

(e) the amount of any premiums which may be applicable to him determined in accordance with Parts 3 and 4 of Schedule 3 (premiums).

(f) the amount of either the—

(i) work-related activity component; or

(ii) support component,

which may be applicable to him in accordance with Part 5 of Schedule 3 (the components).

Regulation 83.— Time and manner in which claims are to be made

- (1) Subject to paragraphs (4A) to (4AE), every claim shall be in writing and made on a properly completed form approved for the purpose by the relevant authority or in such written form as the relevant authority may accept as sufficient in the circumstances of any particular case or class of cases having regard to the sufficiency of the written information and evidence.
- (2) The forms approved for the purpose of claiming shall be provided free of charge by the relevant authority or such persons as they may authorise or appoint for the purpose.
- (3) Each relevant authority shall notify the Secretary of State of the address to which claims delivered or sent to the appropriate DWP office are to be forwarded.
- (4) A claim in writing —
- (a) may be sent or delivered to the appropriate DWP office where the claimant or his partner is also claiming income support, incapacity benefit, state pension credit, a jobseeker's allowance or an employment and support allowance;
 - (b) where it has not been sent or delivered to the appropriate DWP office, shall be sent or delivered to the designated office;
 - (c) sent or delivered to the appropriate DWP office, other than one sent on the same form as a claim being made to income support, incapacity benefit, a jobseeker's allowance or an employment and support allowance and as approved by the Secretary of State for the purpose of the benefits being claimed, shall be forwarded to the relevant authority within two working days of the date of the receipt of the claim at the appropriate DWP office, or as soon as practicable thereafter;
 - [...]
 - (f) where the claimant has attained the qualifying age for state pension credit, may be sent or delivered to an authorised office;
 - (g) may be sent or delivered to the offices of a county council in England if the council has arranged with the relevant authority for claims to be received at their offices (“county offices”).
- (4A) Where the relevant authority has published a telephone number for the purpose of receiving claims for housing benefit, a claim may be made by telephone to that telephone number.

(4AA) If the Secretary of State agrees, where—

(a) a person makes a claim for a benefit referred to in paragraph (4)(a); and

(b) the Secretary of State has made provision in the Social Security (Claims and Payments) Regulations 1987 for that benefit to be claimed by telephone, that person may claim housing benefit by telephone to the telephone number specified by the Secretary of State.

(4AB) A claim for housing benefit may be made in accordance with paragraph (4AA) at any time before a decision has been made on the claim for the benefit referred to in paragraph (4)(a).

(4AC) If the Secretary of State agrees, where a person, in accordance with regulation 32 of the Social Security (Claims and Payments) Regulations 1987 (information to be given and changes to be notified)—

(a) furnishes the Secretary of State with such information or evidence as he may require; or

(b) notifies the Secretary of State of any change of circumstances, that person may claim housing benefit in the same manner in which the information or evidence was furnished or the notification was given.

(4AD) If the Secretary of State agrees, where a person, in accordance with regulation 24 of the Jobseeker's Allowance Regulations (provision of information and evidence)—

(a) furnishes the Secretary of State with such certificates, documents and other evidence as he may require; or

(b) notifies the Secretary of State of any change of circumstances,

that person may claim housing benefit in the same manner as the certificate, document and other evidence was furnished or the notification was given.

(4AE) A claim for housing benefit may be made in accordance with paragraphs (4AC) or (4AD) at any time before a decision has been made on the award of benefit to which the information, evidence, certificates, documents or notification relates.

(4B) The relevant authority may determine, in any particular case, that a claim made by telephone in accordance with paragraph (4A) is not a valid claim unless the person making the claim approves a written statement of his circumstances, provided for the purpose by the relevant authority.

(4BA) The relevant authority or the Secretary of State may determine that a claim made by telephone in accordance with paragraphs (4AA) to (4AE) is not a valid claim unless the person making the claim approves a written statement of his circumstances, provided for the purpose by the Secretary of State.

(4C) A claim made by telephone in accordance with paragraphs (4A) to (4AE) is defective unless the relevant authority or the Secretary of State is provided with all the information requested during that telephone call.

(4D) Where a claim made by telephone in accordance with paragraph (4A) is defective, the relevant authority must provide the person making it with an opportunity to correct the defect.

(4DA) Where a claim made by telephone in accordance with paragraphs (4AA) to (4AE) is defective—

(a) the Secretary of State may provide the person making it with an opportunity to correct the defect;

(b) the relevant authority must provide the person making it with an opportunity to correct the defect if the Secretary of State has not already done so, unless it considers that it has sufficient information to determine the claim.

(4E) If the person corrects the defect within one month, or such longer period as the relevant authority considers reasonable, of the date the relevant authority or the Secretary of State last drew attention to it, the relevant authority shall treat the claim as if it had been duly made in the first instance.

(4F) If the person does not correct the defect within one month, or such longer period as the relevant authority considers reasonable, of the date the relevant authority or the Secretary of State last drew attention to it, the relevant authority may treat the claim as if it had been duly made in the first instance where it considers that it has sufficient information to determine the claim.

(5) Subject to paragraph (10), the date on which a claim is made shall be—

(a) in a case where an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance has been made to the claimant or his partner and the claim for housing benefit is made within one month of the date on which the claim for that income support, jobseeker's allowance or employment and support allowance was received at the appropriate DWP office, the first day of entitlement to income support, an income-based jobseeker's allowance or an income-related employment and support allowance arising from that claim;

(aa) in a case where an award of universal credit has been made to the claimant and the claim for housing benefit is made—

(i) within one month of the date on which the claim for universal credit was made in accordance with regulation 8 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 ("the Claims and Payments Regulations"); or

(ii) in a case where the award of universal credit was made without a claim in accordance with regulation 6 (claims not required for entitlement to universal credit in certain cases) or 9(6), (7) or (10) (claims for universal credit by members of a couple) of the Claims and Payments Regulations, or the claimant was treated as making a claim for universal credit under regulation 9(8) of those Regulations, within one month of the date on which the Secretary of State sent notification of the award to the claimant, the first day of entitlement to universal credit arising from the award;

(b) in a case where the claimant or his partner is a person on universal credit, income support, an income-based jobseeker's allowance or an income-related employment and support allowance and he becomes liable for the first time to make payments in respect of the dwelling which he occupies as his home, where the claim is received at the designated office or appropriate DWP office within one month of the claimant first becoming liable for such payments, the date he became liable for those payments;

(c) in a case where the claimant is the former partner of a person who was, at the date of his death or their separation, entitled to housing benefit and the claimant makes a claim within one month of the date of the death or the separation, that date;

(d) except where sub-paragraph (a), (aa), (b) or (c) is satisfied, in a case where a properly completed claim is received in a designated office, an authorised office, county offices or an

appropriate DWP office within one month, or such longer period as the relevant authority considers reasonable, of the date on which—

(i) a claim form was issued to the claimant following the claimant first notifying, by whatever means, a designated office, an authorised office or an appropriate DWP office of an intention to make a claim; or

(ii) a claimant notifies, by whatever means, a designated office, an authorised office or an appropriate DWP office of an intention to make a claim by telephone in accordance with paragraphs (4A) to (4AE), the date of first notification; and

(e) in any other case, the date on which the claim is received at the designated office, authorised office, county offices or appropriate DWP office.

(5A) For the purposes only of sub-paragraph (5)(a) a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which he would have been entitled to that allowance but for regulations made under—

(a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act (waiting days); or

(b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act (waiting days).

(6) Where a claim received at the designated office or appropriate DWP office has not been made in the manner prescribed in paragraph (1), that claim is for the purposes of these Regulations defective.

(7) Where a claim, which is received by a relevant authority, is defective because—

(a) it was made on the form approved for the purpose but that form is not accepted by the relevant authority as being properly completed; or

(b) it was made in writing but not on the form approved for the purpose and the relevant authority does not accept the claim as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence,

the relevant authority may, in a case to which sub-paragraph (a) applies, request the claimant to complete the defective claim or, in the case to which sub-paragraph (b) applies, supply the claimant with the approved form or request further information or evidence.

(7A) Where a claim is received at an appropriate DWP office and it appears to the Secretary of State that the form has not been properly completed, the Secretary of State may request that the claimant provides the relevant authority with the information required to complete the form.

(8) The relevant authority shall treat a defective claim as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (a), (b) or (c) of paragraph (8A) are satisfied.

(8A) The conditions are that—

(a) where paragraph (7)(a) (incomplete form) applies, the authority receives at the designated office the properly completed claim or the information requested to complete it or the evidence within one month of the request, or such longer period as the relevant authority may consider reasonable; or

(b) where paragraph (7)(b) (claim not on approved form or further information requested by relevant authority) applies—

(i) the approved form sent to the claimant is received at the designated office properly completed within one month of it having been sent to him; or, as the case may be,

(ii) the claimant supplies whatever information or evidence was requested under paragraph (7) within one month of the request, or, in either case, within such longer period as the relevant authority may consider reasonable; or

(c) where paragraph (7A) (further information requested by Secretary of State) applies, the relevant authority receives at the designated office the properly completed claim or the information requested to complete it within one month of the request by the Secretary of State or within such longer period as the relevant authority considers reasonable.

(9) A claim which is made on an approved form for the time being is, for the purposes of this regulation, properly completed if completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the claim.

(10) Except in the case of a claim made by a person from abroad, where the claimant is not entitled to housing benefit in the benefit week immediately following the date of his claim but the relevant authority is of the opinion that unless there is a change of circumstances he will be entitled to housing benefit for a period beginning not later than the thirteenth benefit week following the date on which the claim is made, the relevant authority may treat the claim as made on a date in the benefit week immediately preceding the first benefit week of that period of entitlement and award benefit accordingly.

(11) In the case of a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit, paragraph (10) shall apply as if for the reference to the thirteenth benefit week, there was substituted a reference to the seventeenth benefit week.

(12) Where a claimant (“C”)—

(a) makes a claim which includes (or which C subsequently requests should include) a period before the claim is made; and

(b) from a day in that period, up to the date when C made the claim (or subsequently requested that the claim should include a past period), C had continuous good cause for failing to make a claim (or request that the claim should include that period),

the claim is to be treated as made on the date determined in accordance with paragraph (12A).

~~(12A) That date is the latest of—~~

~~_____ (a) the first day from which C had continuous good cause;~~

~~_____ (b) the day 6 months before the date the claim was made;~~

~~_____ (c) the day 6 months before the date when C requested that the claim should include a past period.~~

(12A) That date is the latest of—

(a) the first day from which C had continuous good cause;

(b) the day one month before the date the claim was made; or

(c) the day one month before the date when C requested the claim should include a past period.

(13) In this regulation “*authorised office*” means an office which is nominated by the Secretary of State and authorised by the relevant authority for receiving claims for decision by the relevant authority.

Schedule 3 Applicable amounts

Part 2 Family premium

- 3.—
- (1) The amount for the purposes of regulations 22(c) and 23(d) in respect of a family of which at least one member is a child or young person shall be—
- (a) where the claimant is a lone parent to whom sub-paragraph (3) applies, £22.20;
 - (b) in any other case, £17.45.
- [...]
- (3) The amount in sub-paragraph (1)(a) shall be applicable to a lone parent—
- (a) who was entitled to housing benefit on 5th April 1998 and whose applicable amount on that date included the amount applicable under sub-paragraph (1)(a) 4 as in force on that date; or
 - (b) who was not entitled to housing benefit on 5th April 1998 because that date fell during a rent free period as defined in regulation 81(1) (rent free periods) and his applicable amount on that date would have included the amount applicable under sub-paragraph (1)(a) as in force on that date; or
 - (c) on becoming entitled to housing benefit where that lone parent—
 - (i) had been treated as entitled to that benefit in accordance with sub-paragraph (5)(a) as at the day before the date of claim for that benefit; and
 - (ii) was entitled to council tax benefit as at the date of claim for housing benefit, and in respect of whom, all of the conditions specified in sub-paragraph (4) have continued to apply.
- (4) The conditions specified for the purposes of sub-paragraph (3) are that, in respect of the period commencing on 6th April 1998—
- (a) the claimant has not ceased to be entitled, or has not ceased to be treated as entitled, to housing benefit;
 - (b) the claimant has not ceased to be a lone parent;
 - (c) where the claimant was entitled to income support or to an income based jobseeker's allowance on 5th April 1998, he has continuously, since that date, been entitled to income support, an income based jobseeker's allowance or an income related employment and support allowance or a combination of those benefits;
 - (d) where the claimant was not entitled to income support or to an income based jobseeker's allowance on 5th April 1998, he has not become entitled to income support, an income based jobseeker's allowance or an income related employment and support allowance; and
 - (e) a premium under paragraph 12 or a component under paragraph 23 or 24 has not become applicable to the claimant.
- (5) For the purposes of sub-paragraphs (3)(c)(i) and (4)(a), a claimant shall be treated as entitled to housing benefit—
- (a) during any period where he was not, or had ceased to be, so entitled and throughout that period, he had been awarded council tax benefit and his applicable amount included the amount applicable under paragraph 3(1)(a) of Schedule 1 to the Council Tax Benefit Regulations 2006 (lone parent rate of family premium); or
 - (b) during any rent free period as defined for the purposes of regulation 81(1).

Schedule 4 Sums to be disregarded in the calculation of earnings

17.—

(1) In a case where the claimant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 3 to 10A of this Schedule shall be increased by £17.10.

(2) The conditions of this sub-paragraph are that—

(a) the claimant, or if he is a member of a couple, either the claimant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies; or

(b) the claimant—

(i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or

(ii) is a member of a couple and—

(aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and

(bb) ~~his applicable amount includes a family premium under paragraph 3 of Schedule 3~~ **his family includes at least one child or young person**; or

(iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or

(iv) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and—

(aa) the claimant's applicable amount includes a disability premium under paragraph 12, the work-related activity component under paragraph 23 or the support component under paragraph 24 of Schedule 3; and

(bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the disability premium, the work-related activity component or the support component referred to in sub-head (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or

(c) the claimant is, or, if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit Regulations (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.

(3) The following are the amounts referred to in sub-paragraph (1)—

(a) the amount to be disregarded from the claimant's earnings under paragraphs 3 to 10A of this Schedule;

(b) the amount of child care charges calculated as deductible under regulation 27(1)(c); and

(c) £17.10.

(4) The provisions of regulation 6 shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that regulation were a reference to 30 hours.

Schedule 5 Sums to be disregarded in the calculation of income other than earnings

47.—

(1) ~~Where a claimant's applicable amount includes an amount by way of family premium~~ **Where a claimant's family includes at least one child or young person**, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the claimant's former partner, or the claimant's partner's former partner.

(2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

(3) A payment made by the Secretary of State in lieu of maintenance shall, for the purposes of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

Housing Benefit (persons who have attained the qualifying age for State Pension Credit) Regulations 2006 (SI 2006/214)

Regulation 22.— Applicable amounts

(1) Subject to regulations 61 and 62 and Schedule A1 1 (calculation of weekly amounts, rent free periods and treatment of claims for housing benefit by refugees), the applicable amount of a claimant shall be the aggregate of such of the following amounts as apply in his case—

(a) an amount in respect of his personal allowance, determined in accordance with paragraph 1 of Schedule 3;

(b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 2 of that Schedule;

~~(c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3(1) of Part 2 of that Schedule (family premium);~~

[...]

(e) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums).

[...]

(5) In Schedule 3—

“additional spouse” means a spouse of either party to the marriage who is additional to the other party to the marriage;

“patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005.

Schedule 3 Applicable amounts

~~Part 2 Family premium~~

~~3.—
(1) The amount for the purposes of regulations 22(1)(c) and (d) in respect of a family of which at least one member is a child or young person shall be £17.45.~~

[...]

Schedule 4 Sums disregarded from claimant's earnings

9.—
(1) In a case where the claimant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under this Schedule shall be increased by £17.10.

(2) The conditions of this sub-paragraph are that—

(a) the claimant, or if he has a partner, either the claimant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies; or

(b) the claimant—

(i) is, or any partner of his is, aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or

(ii) if he is a member of a couple—

(aa) at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and

(bb) ~~his applicable amount includes a family premium under paragraph 3 of Schedule 3~~ **his family includes at least one child or young person**; or

(iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or

(iv) is, or if he has a partner, one of them is, engaged in remunerative work for on average not less than 16 hours per week, and paragraph 5(1) above is satisfied in respect of that person; or

(c) the claimant is, or, if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit Regulations 2 (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.

(3) The following are the amounts referred to in sub-paragraph (1)—

(a) any amount disregarded under this Schedule;

(b) the amount of child care charges calculated as deductible under regulation 31(1)(c) (treatment of child care charges); and

(c) £17.10.

(4) The provisions of regulation 6 (remunerative work) shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that regulation was a reference to 30 hours.

Schedule 5 Amounts to be disregarded in the calculation of income other than earnings

20.—

(1) ~~Where a claimant's applicable amount includes an amount by way of a family premium~~ **Where a claimant's family includes at least one child or young person**, £15 of any payment of maintenance, whether under a court order or not, which is made or due to be made by the claimant's spouse, civil partner, former spouse or former civil partner or the claimant's partner's spouse, civil partner, former spouse, or former civil partner.

(2) For the purposes of sub-paragraph (1), where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

Equality Analysis for Removal of the Family Premium

Date: 20th August 2015
Completed by: Darran Nuttall

DWP Department for
Work and Pensions

Removal of the Family Premium

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);
- the United Nations Convention on the Rights of the Child (UNCRC) and, in particular,
 - Article 3;
 - Article 23;
 - and Article 27;
- Convention on the Elimination of All Forms of Discrimination against Women.

Brief outline of policy or service

The Family Premium is currently an addition to the Housing Benefit (HB) applicable amount, which is used in calculating HB entitlement for claimants who do not have linked entitlement to full eligible HB because they are in receipt of another income-related benefit. For such claimants, the amount of HB entitlement is calculated by applying the income taper (65%) to any income in excess of the applicable amount.

Those claimants who have entitlement to another income-related benefit will be unaffected, as entitlement to such a “passporting” benefit¹ will continue to give claimants entitlement to full eligible HB. The removal of the Family Premium will affect people with earnings and/or other forms of income.

Removal of the Family Premium aligns HB with Universal Credit, which does not have a Family Premium or an equivalent, and is intended to promote better work incentives.

Under the new policy, the Family Premium will not be included in the applicable amount for new HB entitlements after 30th April 2016, nor will it for existing claimants who have a first child or become responsible for a child or young person (as defined in the HB regulations) after April 2016.

¹ Benefits which “passport” a claimant to full eligible HB are: Income Support; income-based Jobseeker’s Allowance; income-related Employment and Support Allowance; and the guarantee element of Pension Credit.

So, those notionally affected would include:

- those not entitled to a passporting benefit whose: entitlement to HB starts after 30th April 2016; or who become responsible for a child or young person for the first time after that date;
- those on “passporting” benefits who are responsible for a child or young person whose: entitlement to HB starts after 30th April 2016; but who subsequently move off the “passporting” benefit and as a result move onto HB only.

At current benefit rates, the notional difference for most affected claimants will be £11.35pw (65% of the current Family Premium of £17.45pw). This notional loss could be recouped by someone working fewer than 5 additional hours at the National Living Wage.

For existing claimants who are entitled to the Family Premium on 30th April 2016, entitlement to the Premium will end when they make a new claim for HB (including therefore those who move from one local authority area to another), or when they cease to be treated as responsible for any children or young people.

As this policy only applies to new claims to HB, or those who have a first child while claiming HB, this alignment measure does not result in a reduction in actual benefit paid.

Evidence and analysis

The alignment rule will, from 1st May 2016, apply both to new claimants to HB who have responsibility for at least 1 child or young person, and those that have a first child or become responsible for a child or young person for the first time whilst currently claiming HB.

Approximately 190,000 households will be affected in 2016/17. Most families' potential entitlement to HB would be, notionally, £11.35 per week lower compared to what they might have received if the Family Premium had not been removed. Households could make a behavioural response to the new level of HB so that overall there would not be a notional loss in entitlement: people might be able to take up more work, or reduce household expenditure. For the majority of families this, could be recouped by someone working fewer than 5 additional hours at the National Living Wage

Impact on protected groups

Information on the protected characteristics of the precise group of future claimants affected by the policy is not available. So, this assessment looks at the characteristics of the stock of current claimants who benefit from the Family Premium as a proxy for those affected and are not on passported HB. The comparator group is those that are claiming HB and do not have children and those that are claiming passported HB and have children.

Single females and couples are more likely to be affected, as over 95% of those currently eligible for the Family Premium are in those groups.

Only 20% of those affected by the alignment are disabled. This is because households with a disability are more likely to be on “passported” HB than households without a disabled person.

The race/ethnicity profile of HB claimants is broadly similar between those who are eligible for the Family Premium and those who are not.

Whilst the policy alignment affects all equally, regardless of age, those affected are younger than those that are not affected: overall, around 80% of those affected will be between 25 and 44 years old.

Data on other protected groups are not available.

Decision making

Mitigation

The notional loss from these changes could be recouped by someone working fewer than 5 additional hours at the National Living Wage.

Claimants affected by the change may be able to apply for a Discretionary Housing Payment (DHP), administered by local authorities.

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 Limiting Housing Benefit backdating to one month

Date: 20th August 2015
Completed by: Darran Nuttall

Limiting Housing Benefit backdating to one month

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), and in particular Article 28 which concerns the right to an adequate standard of living and social protection;
 - the United Nations Convention on the Rights of Persons with Disabilities (CRPD), Article 19 which concerns the rights of disabled people to live independently and be included within the community;
 - 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

In the July 2015 Budget, the Chancellor of the Exchequer announced that, from April 2016, Universal Credit (UC) alignment changes would be made to the backdating provisions within working age Housing Benefit (HB) only. This measure is to reduce the period of backdating from six months to one month is part of a wider package of changes to HB designed to address affordability, unfairness and alignment with UC. The policy does not affect pensioners in the main, apart from a small minority moving from working age to pension age who request backdating.

In addition, the majority of claimants receiving working age HB have entitlement to other income-related benefits; as such this would indicate that such benefits are not claimed separately.

Under current rules, working-age claimants may have their HB claim backdated for up to 6 months prior to their date of claim for HB, provided they can show 'continuous good cause' for the delay in making the claim. UC backdating is simplified to one month. HB backdating will be equalized with UC, whilst retaining the requirement to demonstrate good cause for the delay in making the claim.

The alignment rules will apply to claimants who submit a new claim for HB from April 2016. As this policy only applies to new claims, it results in no cash loss; there are only notional losses. The Government continues to support welfare rights and advocacy organisations to provide advice and help to vulnerable people.

This Equality Analysis is to consider the impact of the policy to limit backdating of HB to one month for people of working Age.

Evidence and analysis

The alignment rules will apply to claimants who submit a new claim for HB from April 2016. As those who will submit a new claim are unknown, it is assumed, for the purposes of this analysis, that the characteristics of those currently claiming HB will not change between now and 2016.

The administrative dataset that the Department holds in relation to backdating does not contain any information on the protected characteristics, therefore the affected group for this analysis is all current working age HB claimants, regardless of whether they have had a backdated claim. The comparator group is those that are working age and not claiming HB.

Aligning the backdating period from six months to one month means the potential entitlement period changes, but there is no actual reduction in benefit to the claimant.

HB has a limited future for working age claimants. As this is an alignment with UC, no-one is more affected than they will be when they transition onto UC during the next few years, where the backdating period is already limited to one month.

Impact on protected groups

Information on the protected characteristics of the precise group of future claimants affected by the policy is not available. In order to facilitate comparisons, working age people on HB in social and private sector housing were used as proxy for new HB claimants. The analysis showed that the notionally affected group would be slightly older than the comparator group and more likely to be disabled than the comparator group.

From April 2016, the alignment in the backdating period will apply to all HB claimants regardless of their protected characteristics.

Gender

The aligned legislation notionally affects all working age claimants regardless of gender. There higher numbers of single females claiming HB, however, is no evidence that the policy would change the gender profile of the caseload.

Disability

The alignment change notionally affects all HB claimants equally, regardless of disability. The policy would affect households with a disability due to the fact that the proportion of HB claimants who are disabled is higher than the proportion of HB claimants who are not disabled.

Race / Ethnicity

Research shows that there are similar numbers of the different race/ethnic groups claiming HB as those not claiming.

There is no evidence that different race/ethnic groups request backdating more than any other group. Within UC, there is no evidence that protected groups have been disadvantaged by its one month backdating rule.

Age

By definition of the alignment policy, only working age claimants will be notionally affected.

Overall, the highest proportions of HB claimants are in the under 25 age group. However, there is no evidence to suggest that under 25s will face greater difficulty in applying for HB expeditiously.

The pension age HB regulations will be unaffected by this change and their backdating provision will remain at three months. There is still the potential to backdate the HB claim for people who have reached the qualifying age for Pension Credit into the period when the claimant was of working age. This will still apply under the new rules, but the period for backdating into working age HB will be reduced.

The Department does not hold information specifically on the following protected characteristics: sexual orientation; pregnancy and maternity; religion and belief, marriage and civil partnerships; and gender reassignment. We do not envisage an adverse impact on these grounds. From April 2016, the alignment in the backdating period will apply to all HB 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?

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

EXPLANATORY MEMORANDUM TO

THE HOUSING BENEFIT (MISCELLANEOUS AMENDMENTS) REGULATIONS 2015

2015 No. [XXXX]

1. This explanatory memorandum has been prepared by The Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The purpose of this instrument is to amend:

the Housing Benefit Regulations 2006 (SI 2006/213)
(www.dwp.gov.uk/docs/a8-2501.pdf);

the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (SI 2006/214)
(www.dwp.gov.uk/docs/a8-2901.pdf);

to abolish the family premium for: all Housing Benefit entitlement arising on or after the coming into force date of this instrument; and for those who cease to have responsibility for any children or young people after that date, or who become responsible for such a person after that date;

to reduce the period for which working age Housing Benefit claim can be backdated.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 The Family Premium is currently an addition to the Housing Benefit (HB) applicable amount. The applicable amount is used in calculating HB entitlement, principally for claimants who do not have linked entitlement to full eligible HB because they are in receipt of another income-related benefit. For such claimants, the amount of HB entitlement is calculated by applying the income taper (65%) to any income in excess of the applicable amount.
 - 4.2 Under the new policy, the Family Premium will not be included in the HB applicable amount for new HB entitlement after April 2016, and for any existing claimants who have a first child or become responsible for a

child (i.e. under 16) or young person (as defined by the HB regulations) after April 2016. It will also mean that if a current claimant ceases to have responsibility for any children or young people, then they cannot regain access to the Family Premium if they become responsible for such a person in the future. The policy provides alignment with Universal Credit which does not provide a Family Premium.

Limiting Backdating

4.3 Under current rules, working-age HB claimants may have their HB claim treated as made from a date up to 6 months before they made their claim for HB if they can show 'continuous good cause' for the delay in making the claim. Universal Credit backdating is limited to one month. HB will be equalized with this whilst retaining the requirement to demonstrate good cause for failing to make the claim.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

5.2 DN: The policy has been shared with Department for Social Development, Northern Ireland and we await confirmation of any intent to replicate.

6. European Convention on Human Rights

As this instrument is subject to the negative resolution procedure, and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

Family Premium

7.1 Regulation 2(2), (3) and (4) make amendments to SI 2006/213 to remove the Family Premium from Housing Benefit, and thereby align it with Universal Credit, which does not contain an equivalent premium.

7.2 Regulations 2(5) and 2(6) amend provisions relating to the additional earnings disregard (currently £17.10 a week) and the disregard of spousal maintenance, which at present contain references to the Family Premium, to ensure that both continue to apply as they do now following the removal of the family premium. It should be noted that the redrafting of the spousal maintenance provision, in adopting a consistent drafting approach, means that the disregard will no longer cover polygamous marriage cases. The numbers of such cases should be very low (if any)

7.3 Regulation 3 makes equivalent changes to SI 2006/214

7.4 Regulation 5 ensures that claimants entitled to HB on 30th April 2016 who have entitlement to the family premium on that date will continue

to have entitlement to it until: there is a new claim a new claim for HB (effectively with the cessation of the current HB claim); or the claimant ceasing to be responsible for any children/young people.

Backdating

7.5 Regulation 4 amends the backdating rule in regulation 83 to align HB with Universal Credit by providing that the time limit for treating a claim as made before HB was actually claimed is one month, rather than the current 6 months. There is still a requirement to show continuous good cause throughout the backdating period.

Consolidation

7.6 "Informal consolidated text of instruments is available to the public free of charge via 'The Law Relating to Social Security' (Blue Volumes) on the Department for Work and Pensions website at <http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/> or the National Archive website legislation.gov.uk. An explanation as to which instruments are maintained on each site is available from <http://www.dwp.gov.uk/docs/lawvolnews.pdf>."

8. Consultation

8.1 In accordance with section 176(1) of the Social Security Administration Act 1992, the Department has been consulting formally with the Local Authority Associations throughout August to advise them of the proposed changes. The outcomes will be conveyed to the Social Security Advisory Committee on 2nd September.

9. Guidance

9.1 Guidance will be made available to local authority staff prior to the regulations coming into force.

10. Impact

10.1 There is no impact on business or civil society organisations.

10.2 The impact on the public sector is negligible.

10.3 An Equality Analysis is attached to this memorandum

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Monitoring of the changes will be part of the general monitoring of Housing Benefit claims. The Department will review the impacts of these regulations through the normal course of business.

13. Contact

Darran Nuttall at the Department for Work and Pensions Tel: 01629 773013 or email: Darran.nuttall@dwp.gsi.gov.uk can answer any queries regarding the instrument.

DRAFT

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