

2007 No. 2872 (C. 111)

SOCIAL SECURITY

The Welfare Reform Act 2007 (Commencement No.4, and Savings and Transitional Provisions) Order 2007

Made - - - - *30th September 2007*

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by sections 68 and 70(2) of the Welfare Reform Act 2007^(a)

Citation and interpretation

1.—(1) This Order may be cited as the Welfare Reform Act 2007 (Commencement No.4, and Savings and Transitional Provisions) Order 2007.

(2) In this Order—

“the Act” means the Welfare Reform Act 2007;

“the Administration Act” means the Social Security Administration Act 1992^(b);

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992^(c);

“the Consequential Provisions Regulations” means the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006^(d);

“the Housing Act” means the Housing Act 1996^(e);

“the Housing Benefit (State Pension Credit) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006^(f);

“the Regulations” means the Housing Benefit Regulations 2006^(g).

Appointed days

2.—(1) 7th April 2008 is the appointed day for the coming into force of—

(a) section 30(1) of the Act (local housing allowance);

(b) section 35(3) of the Act (information relating to housing benefit);

(c) Schedule 8 to the Act (repeals), in so far as it relates to the repeal of—

(i) section 130(4) of the Contributions and Benefits Act (housing benefit);

(a) 2007 c.5.

(b) 1992 c.5.

(c) 1992 c.4.

(d) S.I. 2006/217.

(e) 1996 c.52

(f) S.I. 2006/214. Relevant amending instruments are S.I. 2006/2967, 2006/2968 and 2007/1356.

(g) S.I. 2006/213. Relevant amending instruments are S.I. 2006/2967, 2006/2968 and 2007/1356.

- (ii) section 5(3) of the Administration Act (power to make regulations about information or evidence required by rent officer)(a);
 - (iii) section 122(3) of the Housing Act (functions of rent officers in connection with housing benefit and rent allowance subsidy);
 - (iv) in section 122(5)(b) of the Housing Act, the words “or regulations”; and
 - (v) paragraph 3(2) of Schedule 13 to the Housing Act (housing benefit and related matters: consequential amendments);
- and section 67 of the Act (repeals) in so far as it relates to those repeals; and
- (d) paragraph 12 of Schedule 5 to the Act (minor and consequential amendments relating to Part 2) so far as it relates to the amendment of section 122(5) of the Housing Act and section 40 of the Act in so far as it relates to that consequential amendment.
- (2) For the purpose only of conferring power to make regulations 1st October 2007 is the appointed day for the coming into force of—
- (a) section 30(2) of the Act (insertion of section 130A (appropriate maximum housing benefit) into the Contributions and Benefits Act);
 - (b) section 30(3) of the Act (amendment of paragraph 4 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000 (housing benefit and council tax benefit: revisions and appeals)(b); and
 - (c) section 35(1) and (2) of the Act.
- (3) For all other purposes 7th April 2008 is the appointed day for the coming into force of the provisions specified in paragraph (2).
- (4) This article is subject to the savings and transitional provisions in articles 3 to 5.

Transitional provisions and savings in relation to section 130(4) of the Contributions and Benefits Act and section 122(3) and (5) of the Housing Act

3.—(1) Notwithstanding article 2 and subject to article 4—

- (a) section 130(4) of the Contributions and Benefits Act and section 122(3) and (5) of the Housing Act shall continue to have effect as they were in force immediately before 7th April 2008 so far as is required for the purpose of conferring power to amend or revoke the regulations referred to in paragraph (2), until 7th April 2009; and
- (b) any regulations made under any of the provisions referred to in sub-paragraph (a) shall continue to have effect in relation to the period ending on the date specified in paragraph (3), (4), (5) or (6) except for paragraphs 11 and 12 of Schedule 2 to the Consequential Provisions Regulations.

(2) The regulations are—

- (a) the Regulations;
- (b) the Housing Benefit (State Pension Credit) Regulations; and
- (c) the Consequential Provisions Regulations.

(3) In relation to a case in which reference was made to a maximum rent (standard local rate) in determining the eligible rent which applied immediately before 7th April 2008, the date is 7th April 2008.

(4) In relation to a case where—

- (a) either—
 - (i) a claim for housing benefit is made, delivered or received on or after 7th April 2008 but the date the claim is made or is treated as being made is a date before 7th April

(a) 1992 c.5. Section 5(3) was amended by section 123 of and paragraph 3(2) of Schedule 13 to the Housing Act 1996 (c.52).
 (b) 2000 c.19.

2008 by virtue of regulations 83, 83A, 84 or 85 of the Regulations or regulations 64, 64A, 65 or 66 of the Housing Benefit (State Pension Credit) Regulations; or

(ii) a claim was made or was treated as made before 7th April 2008 but the decision on the claim was not made by that date; and

(b) reference to a maximum rent (standard local rate) would have been made in determining the eligible rent which applied immediately before 7th April 2008 had the decision on the claim been made before that date,

the date is 7th April 2008.

(5) In relation to a non-local housing allowance case the date is the relevant date for that case.

(6) In relation to a case where—

(a) either—

(i) a claim for housing benefit is made, delivered or received on or after the 7th April 2008 but the date the claim is made or is treated as being made is a date before that date by virtue of regulations 83, 83A, 84 or 85 of the Regulations or regulations 64, 64A, 65 or 66 of the Housing Benefit (State Pension Credit) Regulations; or

(ii) a claim was made or was treated as made before 7th April 2008 but the decision on the claim was not made by that date; and

(b) the case would have been a non-local housing allowance case had the decision on the claim been made before 7th April 2008,

the date is the relevant date for that case.

(7) In this article—

“eligible rent” shall be construed, except in the definition of “the relevant date”, in accordance with—

(a) regulations 12 or 12A of the Regulations or the Housing Benefit (State Pension Credit) Regulations as in force immediately before the 7th April 2008; or

(b) in a case to which paragraph 4 of Schedule 3 to the Consequential Provisions Regulations applies, regulations 12 and 13 of the Housing Benefit Regulations 2006 or the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 as set out in paragraph 5 of that Schedule as in force immediately before the 7th April 2008;

“maximum rent (standard local rate)” means a maximum rent (standard local rate) determined in accordance with regulation 13A of the Regulations or the Housing Benefit (State Pension Credit) Regulations as in force immediately before 7th April 2008;

“non-local housing allowance case” means a case where no reference was made to a maximum rent (standard local rate) in determining the amount of the eligible rent which applied immediately before 7th April 2008;

“the relevant date” means, in relation to a non-local housing allowance case—

(a) the day on or after 7th April 2008 when any of the following sub-paragraphs first applies—

(i) a relevant authority is required to apply to a rent officer by virtue of regulation 14 of the Regulations or the Housing Benefit (State Pension Credit) Regulations as in force immediately before that day;

(ii) sub-paragraph (i) would apply but for the case falling within regulation 14(4)(a) of, or 14(4)(b) of and paragraph 2 of Schedule 2 to, the Regulations or the Housing Benefit (State Pension Credit) Regulations as in force immediately before that day;

(iii) a relevant authority is required to determine an eligible rent in accordance with regulation 12(3)(b) of the Regulations or the Housing Benefit (State Pension Credit) Regulations as in force immediately before that day;

(iv) a relevant authority is required to determine an eligible rent in accordance with regulation 12(3) of the Housing Benefit Regulations 2006 or the Housing Benefit

(Persons who have attained the qualifying age for state pension credit) Regulations 2006 as set out in paragraph 5 of Schedule 3 to the Consequential Provisions Regulations as in force immediately before that day; or

(b) 6th April 2009 in any case where paragraph (a) does not apply before that date;

“relevant authority” means an authority administering housing benefit.

Transitional provisions and savings in relation to section 130(4) of the Contributions and Benefits Act and extended payments

4.—(1) Notwithstanding article 2, regulations 72 and 73 of, and Schedules 7 and 8 to, the Regulations, and regulation 53 of, and Schedule 7 to, the Housing Benefit (State Pension Credit) Regulations shall continue to have effect in relation to the period ending on 6th October 2008 or such later date as is provided by paragraphs (2) or (3).

(2) Where an extended payment award is determined before 6th October 2008 and the extended payment period will end after that date, the date shall be the end of that extended payment period.

(3) Where a claim for an extended payment is made or treated as made on a date before 6th October 2008 but the extended payment award was not determined by that date, the date shall be the end of that extended payment period.

(4) In this Article—

“extended payment” means a payment of housing benefit pursuant to—

- (a) regulation 72 of the Regulations (extended payments);
- (b) regulation 73 of the Regulations (extended payments (severe disablement allowance and incapacity benefit)); or
- (c) regulation 53 of the Housing Benefit (State Pension Credit) Regulations (extended payments severe disablement allowance and incapacity benefit),

where the date on which the claimant ceased to be entitled to housing benefit in accordance with regulation 77 or 78 of the Regulations or regulation 58 of the Housing Benefit (State Pension Credit) Regulations was before 6th October 2008; and

“extended payment period” means the period during which a person is entitled to housing benefit in accordance with regulation 72(6) or 73(6) of the Regulations or regulation 53(6) of the Housing Benefit (State Pension Credit) Regulations.

Transitional provisions and savings in relation to section 5(3) of the Administration Act

5. Notwithstanding article 2, any regulations made under both section 5(1)(h) and 5(3) of the Administration Act shall continue to have effect for all purposes relating to the furnishing of information or evidence required by a rent officer under section 122 of the Housing Act 1996 in relation to a claim for or an award of housing benefit which relates to any period before 7th April 2008.

Signed by authority of the Secretary of State for Work and Pensions

30th September 2007

James Plaskitt
Parliamentary Under Secretary of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the coming into force of the following provisions in the Welfare Reform Act 2007 (“the Act”)—

- (a) section 30(1) of the Act (local housing allowance);
- (b) section 30(2) of the Act (insertion of section 130A (appropriate maximum housing benefit) into the Social Security Contributions and Benefits Act 1992 (“the Contributions and Benefits Act”));
- (c) section 30(3) of the Act (amendment of paragraph 4 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000 (housing benefit and council tax benefit: revisions and appeals));
- (d) section 35(1) to (3) of the Act (information relating to housing benefit);
- (e) section 40 and paragraph 12 of Schedule 5 to the Act (minor and consequential amendments relating to Part 2) so far as it relates to the amendment of section 122(5) of the Housing Act 1996 (“the Housing Act”); and
- (f) section 67 and Schedule 8 to the Act (repeals), in so far as it relates to the repeal of—
 - (i) section 130(4) of the Contributions and Benefits Act (housing benefit);
 - (ii) section 5(3) of the Social Security Administration Act 1992 (“the Administration Act”) (power to make regulations about information or evidence required by rent officer);
 - (iii) section 122(3) of the Housing Act (functions of rent officers in connection with housing benefit and rent allowance subsidy);
 - (iv) in section 122(5)(b) of the Housing Act, the words “or regulations”; and
 - (v) paragraph 3(2) of Schedule 13 to the Housing Act (housing benefit and related matters: consequential amendments).

The current powers will be repealed on 7 April 2008, except to the extent that they are saved by Articles 3 to 5 of the Commencement Order.

Article 3 saves section 130(4) of the Contributions and Benefits Act and sections 122(3) and (5) of the Housing Act for certain purposes. It also saves regulations made under those provisions for certain periods, subject to specified exceptions and to the provisions in Article 4 relating to extended payments. Once those regulations cease to have effect in any particular case, regulations made under the new powers in section 30 of the Act will apply to those cases.

Under Article 3—

- (a) for cases in which reference was made to maximum rent (standard local rate) (known as local housing allowance cases) immediately before 7th April 2008 (or a claim in such a case is treated as made before that date), the period in relation to which the regulations will apply is until 7th April 2008. This is to ensure that regulations made under section 130(4) of the Contributions and Benefits Act will continue to apply for the period up to 7th April 2008, even where decisions relating to that period are made after that date; and
- (b) for non-local housing allowance cases, the move to the new powers will be staggered. In any particular case regulations made under section 130(4) of the Contributions and Benefits Act will continue to apply until the relevant date for that case or such later date if the claim was made (or treated as made) before the relevant date for that case. Any remaining non-local housing allowance cases which have not already transferred to regulations under the new powers will do so on 6th April 2009.

Article 4 provides that regulations made under section 130(4) of the Contributions and Benefits Act which relate to extended payments will continue to apply until 6th October 2008 or such later date as is provided in that article.

Article 5 provides that regulations made under both section 5(1)(h) and 5(3) of the Administration Act will continue to apply for all purposes which relate to requiring persons to furnish information or evidence to a rent officer in relation to an award of housing benefit for any period before 7th April 2008.

A full regulatory impact assessment has not been published for this instrument as it has no direct impact on the costs of businesses, charities and the voluntary sector.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been or will be brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s.31 (partially)	14.06.2007	2007/1721
s.31 (remainder)	1.11.2007	2007/1721
s.41(1)	1.10.2007	[2007/]
s.52	1.10.2007	[2007/]
s.53	1.10.2007	[2007/]
s.58, Schedule 6 (partially)	12.07.2007	2007/1991
s.58, Schedule 6 (remainder)	10.08.2007	2007/1991
s.60 (partially)	1.10.2007	[2007/]
s.60 (remainder)	29.10.2007	[2007/]
s.63, Schedule 7, paragraph 2 (partially)	1.10.2007	[2007/]
s.67, Schedule 8 (partially)	1.10.2007	[2007/]

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