

This Statutory Instrument has been made in consequence of a defect in S.I. 2008/3195 and is being issued free of charge to all known recipients of that Statutory Instrument.

S T A T U T O R Y I N S T R U M E N T S

2009 No. 3257

SOCIAL SECURITY

**The Social Security (Housing Costs Special Arrangements)
(Amendment) Regulations 2009**

Made - - - - - *9th December 2009*

Laid before Parliament *15th December 2009*

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(a), 135(1), 137(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(a), sections 4(5), 35(1) and 36(2) of the Jobseekers Act 1995(b), sections 2(3)(b), 17(1) and 19(1) of the State Pension Credit Act 2002(c), and sections 4(2)(a), 24(1) and 25(2) and (3) of the Welfare Reform Act 2007(d).

The Secretary of State referred the proposals for these Regulations to the Social Security Advisory Committee(e).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Housing Costs Special Arrangements) (Amendment) Regulations 2009, and (subject to paragraph (2)) shall come into force on 5th January 2010.

(2) Regulations 4, 5 and 6(a), in so far as they relate to a particular person, come into force on the first day of the first benefit week to commence for that person on or after 5th January 2010.

(3) In these Regulations—

“benefit week” has the same meaning as in regulation 1(4) of the principal Regulations;

“the principal Regulations” means the Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008(f).

(a) 1992 c. 4. Section 137(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”. Section 137(2)(d) was substituted by the Jobseekers Act 1995 (c. 18), section 41(4), Schedule 2, paragraph 35(3). Section 175(1) and (4) was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(b) 1995 c. 18. Section 35(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”.

(c) 2002 c. 16. Section 17(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”.

(d) 2007 c. 5. Section 24(1) is cited for the meaning of “prescribed” and “regulations”.

(e) See section 172(1) of the Social Security Administration Act 1992 (c. 5).

(f) S.I. 2008/3195.

Amendment of regulation 3 of the principal Regulations

2. In regulation 3(3) and (4) (application) of the principal Regulations for “he or she” in both places substitute “that person”.

Amendment of regulation 6 of the principal Regulations

3. In regulation 6(a) (modification of the Jobseeker’s Allowance Regulations) of the principal Regulations, in sub-paragraph (3)(a) of the new paragraph 4A to be treated as inserted in the Jobseeker’s Allowance Regulations 1996(a), omit “or her”.

Amendment of regulation 8 of the principal Regulations

4. For regulation 8 (application and interpretation) of the principal Regulations substitute—

“8.—(1) This Part applies on and after 5th January 2010 to a person (“C”) who—

- (a) claims a relevant benefit after 4th January 2009; and
- (b) satisfies any of the following conditions.

(2) The first condition is that Part 2 applied to C at any time.

(3) The second condition is that this Part (as it has effect on and after 5th January 2010) applied to C in relation to a previous award.

(4) The third condition is that—

- (a) neither C nor C’s partner has been awarded a relevant benefit as the result of an earlier claim (whether the award was made before or on or after 5th January 2009);
- (b) neither C nor C’s partner is in receipt of state pension credit before the date on which C’s claim is made or treated as made; and
- (c) C does not fall to be treated under a linking rule as being in continuous receipt of the benefit to which C’s claim relates in respect of a period which begins on or before 4th January 2009 and which ends immediately before the date on which C’s claim is made or is treated as made.

(5) The fourth condition is that—

- (a) C is not in receipt of a relevant benefit immediately before the date on which a claim made by C after 4th January 2009 is made or treated as made;
- (b) neither C nor C’s partner is in receipt of state pension credit before that claim is made or treated as made;
- (c) C or C’s partner was awarded a relevant benefit as the result of a claim made or treated as made before that claim; and
- (d) C does not fall to be treated under a linking rule as being in continuous receipt of a relevant benefit during the period which falls immediately between the date on which a claim to which this provision relates is made or treated as made and the last period to occur before that date in respect of which C was in receipt of a relevant benefit (whether as a single person or as a member of a couple or polygamous marriage).

(6) The fifth condition is that—

- (a) C or C’s partner is in receipt of state pension credit before the date on which any claim for a relevant benefit made by C or C’s partner after 4th January 2009 is made or treated as made; and
- (b) none of the following provisions apply in relation to any such claim—

(a) S.I. 1996/207.

- (i) paragraph 3(2) (previous entitlement to other income-related benefits) of Schedule 6 (housing costs) to the Employment and Support Allowance Regulations(a);
 - (ii) paragraph 1A(1A) (previous entitlement to income-based jobseeker's allowance, income-related employment and support allowance or state pension credit) of Schedule 3 (housing costs) to the Income Support Regulations(b);
 - (iii) paragraph 1A(1ZA) or (1B) (previous entitlement to income support, income-related employment and support allowance or state pension credit) of Schedule 2 (housing costs) to the Jobseeker's Allowance Regulations(c).
- (7) In this regulation—
- a “linking rule” means a provision of—
 - (a) paragraph 15 (linking rule) of Schedule 6 (housing costs) to the Employment and Support Allowance Regulations,
 - (b) paragraph 14 (linking rule) of Schedule 3 (housing costs) to the Income Support Regulations, or (as the case may be)
 - (c) paragraph 13 (linking rule) of Schedule 2 (housing costs) to the Jobseeker's Allowance Regulations;
- “partner” has the same meaning as in regulation 1(3) (citation, commencement and interpretation) of the Jobseeker's Allowance Regulations(d).”.

Amendment of regulation 11 of the principal Regulations

5. In regulation 11 (modification of the Jobseeker's Allowance Regulations) of the principal Regulations for paragraph (b) substitute—

“(b) after paragraph 4 (housing costs not met) there were inserted—

“Housing costs: limitation applicable to qualifying loans

4A.—(1) Except as mentioned below, no amount may be met in respect of housing costs under paragraph 14 or 15 after the claimant has been in receipt of housing costs under either or both of those paragraphs (“relevant housing costs”) for a cumulative total of 104 weeks, beginning on or after 5th January 2009.

(2) Sub-paragraphs (3) to (6) apply for the purposes of sub-paragraph (1).

(3) No week in which the appropriate amount specified in paragraph 10(4) is £100,000 in relation to the claimant is to count towards the 104 week total.

(4) Where sub-paragraph (5) applies to the claimant, relevant housing costs awarded to him in respect of a previous award of a jobseeker's allowance are to be disregarded.

(5) This sub-paragraph applies to the claimant where he does not fall to be treated under paragraph 13 (linking rule) as being in receipt of a jobseeker's allowance for a continuous period beginning with the first day of the last period in respect of which he was not in receipt of a jobseeker's allowance and ending immediately before his most recent claim is made or is treated as made.

(6) Sub-paragraph (1) does not apply where—

- (a) the claimant or his partner or, if the claimant is a member of a joint-claim couple, the other member of the couple, was entitled to an employment and

(a) Paragraph 3(2) was amended by S.I. 2008/2428.

(b) Paragraph 1A was inserted by S.I. 1997/2305 and was amended by S.Is. 2007/3183, 2008/1554.

(c) Paragraph 1A was inserted by S.I. 1997/2305 and was amended by S.Is. 2007/3183, 2008/1554. Paragraph (1ZA) and (1B) were inserted by S.I. 2007/3183.

(d) Relevant amending instruments are: S.Is. 2000/1978 and 2005/2877.

- support allowance or income support before one of them becomes entitled to a jobseeker's allowance; and
- (b) 12 weeks or less has elapsed since the last day of that entitlement and the first day of entitlement to a jobseeker's allowance.””.

Amendment of regulation 12 of the principal Regulations

6. In regulation 12 (modifications relating to certain persons who claim State Pension Credit) of the principal Regulations—

- (a) in paragraph (1)(c), for “Part 2 or 3 applies” substitute—
“—
(i) Part 2 applies, or
(ii) Part 3 (as it has effect, in relation to the person or that person's partner, on and after 5th January 2010) applies or would have applied had the person claiming state pension credit remained entitled to a relevant benefit.”;
- (b) in paragraph (1)(c), (d) and (e), for “his or her” substitute “that person's”.

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

Jonathan Shaw
Parliamentary Under-Secretary of State
Department for Work and Pensions

9th December 2009

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the provisions of the Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008 (“the principal Regulations”) which relate to the payment of housing costs to employment and support allowance, income support, jobseeker's allowance and state pension credit claimants. Under those provisions help can be provided with mortgage interest on a qualifying loan taken out to purchase a home.

The principal Regulations modify the housing costs provisions in the Employment and Support Allowance Regulations 2008 (S.I. 2008/794), the Income Support (General) Regulations 1987 (S.I. 1987/1967) and the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) in relation to certain claimants, in particular so that the waiting period before housing costs can be met is 13 weeks and the capital limit for qualifying loans is £200,000. With some exceptions, interest on a qualifying loan is limited to 104 weeks for jobseeker's allowance claimants.

Regulations 2 and 3 correct minor errors in regulation 3 and 6(a) of the principal Regulations.

Regulation 4 substitutes regulation 8 of the principal Regulations which concerns the application of Part 3 of those Regulations to certain persons who claim an employment and support allowance, income support or a jobseeker's allowance (“a relevant benefit”) after 4th January 2009.

Except for certain people who are deemed to have been in receipt of benefit on or before 4th January 2009 under the housing costs rules, the effect of the substitution is that Part 3 of the principal Regulations applies where neither the claimant nor the claimant's partner has previously been awarded a relevant benefit (or state pension credit) even though the claimant may be treated as having been in receipt of benefit in respect of a past period.

A further effect of the substitution made by regulation 4 is to clarify that Part 3 of the principal Regulations also applies to claimants who have a break in entitlement and who make a repeat

claim after 4th January 2009 which does not link to an earlier claim under the housing costs linking rules.

Regulation 5 substitutes a new provision for regulation 11(b) of the principal Regulations. Regulation 11(b) modifies Schedule 2 (housing costs) of the Jobseeker's Allowance Regulations 1996(a) by inserting paragraph 4A which limits to 104 weeks the number of weeks that certain people who claim a jobseeker's allowance after 4th January 2009 can receive assistance with interest on a qualifying loan. The effect of the substitution is to clarify that previous housing costs do not count towards the total where there has been a break in entitlement which does not link to an earlier claim.

Regulation 6 makes minor amendments to regulation 12 (modifications relating to State Pension Credit) of the principal Regulations in consequence of these Regulations. It also corrects a minor error in the principal Regulations.

The Report of the Social Security Advisory Committee dated 13th May 2009 on the proposals referred to them in respect of these Regulations together with a statement showing the extent to which they give effect to the recommendations of the Committee, and in so far as they do not give effect to them, the reasons why not, have been published by the Stationery Office Ltd and laid by the Secretary of State before each House of Parliament in accordance with sections 173 and 174 of the Social Security Administration Act 1992.

An impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

© Crown copyright 2009

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

(a) S.I. 1997/207.

This Statutory Instrument has been made in consequence of a defect in S.I. 2008/3195 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2009 No. 3257

SOCIAL SECURITY

**The Social Security (Housing Costs Special Arrangements)
(Amendment) Regulations 2009**

£4.00