

**2013 No. 443**

**SOCIAL SECURITY**

**The Social Security (Miscellaneous Amendments) Regulations  
2013**

*Made* - - - - *25th February 2013*

*Laid before Parliament* *4th March 2013*

*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)(d), 135(1), 136(1), 136A(3), 137(1) and (2)(h) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a), sections 5(1)(p) and (2) and 189(1), (4) and (5) of the Social Security Administration Act 1992(b), sections 4(5), 8(2), 12(4), 13(2), 19A(4), 19B(2) and (4), 35(1) and 36(2) and (4) of the Jobseekers Act 1995(c), sections 10(6), 79(1) and 84 of the Social Security Act 1998(d), sections 2(3)(b), 15(3) and (6), 17(1) and 19(1) of the State Pension Credit Act 2002(e), sections 17(1) and (3)(b), 24(1) and 25(2), (3) and (5)(a) of the Welfare Reform Act 2007(f), and sections 92(1) and (4) and 94(1) of the Welfare Reform Act 2012(g).

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

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- (a) 1992 c. 4. Section 137(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”. 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) 1992 c. 5. Section 5(2) was amended by paragraph 39 of Schedule 2 to the Jobseekers Act 1995 (c. 18), paragraphs 1 and 3 of Schedule 1 to the State Pension Credit Act 2002 (c. 16), Schedule 6 to the Tax Credits Act 2002 (c. 21), paragraph 10 of Schedule 3 to the Welfare Reform Act 2007 (c. 5), section 132(1) of the Health and Social Care Act 2008 (c. 14), Part 1 of Schedule 7 to the Welfare Reform Act 2009 (c. 24) and paragraph 5 of Schedule 2 and paragraph 9 of Schedule 9 to the Welfare Reform Act 2012 (c. 5). Schedule 189 (1), (4) and (5) was amended by paragraph 109 of Schedule 7 and by Schedule 8 to the Social Security Act 1998 (c. 14). Section 189(1) was also amended by paragraph 57(1) and (2) of Schedule 3 to the Social Security (Transfer of Functions, etc.) Act 1999, Schedule 6 to the Tax Credits Act 2002 and section 104 of the Welfare Reform Act 2012.
- (c) 1995 c. 18. Section 8(2) was amended by paragraph 2(3) of Schedule 7 to the Welfare Reform Act 2012 (c. 5). Sections 19A and 19B were introduced by section 46(1) of the Welfare Reform Act 2012. Section 35(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”. Section 36(4)(a) was amended by paragraph 63 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
- (d) 1998 c. 14. Section 79(1) was amended by paragraphs 12 and 13 of Schedule 4 to the Tax Credits Act 2002 and paragraphs 143 and 168(a) of Schedule 3 to S.I. 2008/2833. Section 84 is an interpretation provision and is cited because of the meaning given to the word “prescribe”.
- (e) 2002 c. 16. Section 17(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”.
- (f) 2007 c.5. Section 24(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”. Sections 24(1) and 25(1) have been amended in ways not material to these Regulations.
- (g) 2012 c.5.

In respect of the provisions in these Regulations relating to housing benefit, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned<sup>(a)</sup>.

### Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations 2013 and subject to paragraphs (2) and (3) come into force on 2nd April 2013.

(2) Regulation 5(b) comes into force on 8th April 2013.

(3) Regulation 10 comes into force 29th April 2013, immediately after the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013<sup>(b)</sup> come into force.

### Amendments to the Income Support (General) Regulations 1987

2.—(1) The Income Support (General) Regulations 1987<sup>(c)</sup> are amended as follows.

(2) After the definition of “liable relative” in regulation 2(1) (interpretation), insert—

““local welfare provision” means occasional financial or other assistance given by a local authority, the Scottish Ministers or the Welsh Ministers, or a person authorised to exercise any function of, or provide a service to, them, to or in respect of individuals for the purpose of—

(a) meeting, or helping to meet, an immediate short term need—

(i) arising out of an exceptional event, or exceptional circumstances; and

(ii) that requires to be met in order to avoid a risk to the well-being of an individual; or

(b) enabling individuals to establish or maintain a settled home, where those individuals have been or, without the assistance, might otherwise be—

(i) in prison, hospital, a residential care establishment or other institution; or

(ii) homeless or otherwise living an unsettled way of life;”.

(3) In regulation 54 (interpretation) in paragraph (e)(ii) of the definition of “payment”<sup>(d)</sup>—

(a) omit “the payment is”; and

(b) for “rent, housing costs,” substitute “rent for which housing benefit is payable, housing costs to the extent that they are met under regulation 17(1)(e) or 18(1)(f) (housing costs),”.

(4) In Schedule 3 (housing costs)<sup>(e)</sup>—

(a) in paragraph 3(7)(c)(ii) (circumstances in which a person is to be treated as occupying a dwelling as his home) after “pending” insert “local welfare provision or”; and

(b) in paragraph 18(7)(i) (non-dependant deductions) before “employment and support allowance” insert “income-related”.

(5) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—

(a) after paragraph 31<sup>(f)</sup>, insert—

“31A. Any local welfare provision.”; and

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(a) See section 176(1) of the Social Security Administration Act 1992.

(b) S.I. 2013/380

(c) S.I. 1987/1967.

(d) Relevant amending instrument is S.I. 2008/2111.

(e) Paragraph 3(7)(c)(ii) was substituted by S.I. 2006/2378 and paragraph 18(7)(i) was inserted by S.I. 2008/1554, as amended by S.I. 2008/2428. Paragraphs 3 and 18 have been amended in other ways not material to these Regulations.

(f) Paragraph 31 was amended by S.I. 2008/3157.

- (b) in paragraph 46(a), after “section 13”, insert “, 13A”.
- (6) In Schedule 10 (capital to be disregarded)—
  - (a) after paragraph 18(b), insert—
    - “18A. Any local welfare provision.”; and
  - (b) in paragraph 36(c), after “section 13”, insert “, 13A”.

**Amendments to the Social Security (Claims and Payment) Regulations 1987**

3. In paragraph 6 (fuel costs) of Schedule 9 (deductions from benefit and direct payment to third parties) to the Social Security (Claims and Payment) Regulations 1987(d)—

- (a) in sub-paragraph (1)—
  - (i) for “item of mains gas or mains electricity including any charges for the reconnection of gas or disconnection or reconnection of electricity (“fuel item””, substitute “fuel item”; and
  - (ii) for “that fuel”, substitute “the fuel in respect of which the debt arose (“the relevant fuel””);
- (b) in sub-paragraph (2)(b), for “that fuel item”, substitute “the relevant fuel”;
- (c) at the end of sub-paragraph (2)(b), add “, plus such weekly amount as is required to meet any payments required to be made under a green deal plan within the meaning of section 1 of the Energy Act 2011 (“the 2011 Act”).”;
- (d) in sub-paragraph (4)(a), for “that fuel item”, substitute “the relevant fuel”; and
- (e) after sub-paragraph (7), add—
  - “(8) In this paragraph, “fuel item” means—
    - (a) any charge for mains gas, including for the reconnection of mains gas; and
    - (b) any charge for mains electricity, including any charge for the disconnection or reconnection of mains electricity and including any payments required to be made under a green deal plan within the meaning of section 1 of the 2011 Act.”.

**Amendments to the Jobseeker’s Allowance Regulations 1996**

4.—(1) The Jobseeker’s Allowance Regulations 1996(e) are amended as follows.

- (2) After the definition of “liable relative” in regulation 1(3) (interpretation) insert—
  - ““local welfare provision” means occasional financial or other assistance given by a local authority, the Scottish Ministers or the Welsh Ministers, or a person authorised to exercise any function of, or provide a service to, them, to or in respect of individuals for the purpose of—
    - (a) meeting, or helping to meet, an immediate short term need—
      - (i) arising out of an exceptional event, or exceptional circumstances; and
      - (ii) that requires to be met in order to avoid a risk to the well-being of an individual; or
    - (b) enabling individuals to establish or maintain a settled home, where those individuals have been or, without the assistance, might otherwise be—
      - (i) in prison, hospital, a residential care establishment or other institution; or
      - (ii) homeless or otherwise living an unsettled way of life;”.

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(a) Paragraph 46 was substituted by S.I. 2008/698.  
 (b) Paragraph 18 was amended by S.I. 2008/3157.  
 (c) Paragraph 36 was inserted by S.I. 1990/547, and amended by S.I. 1993/315 and 2008/698.  
 (d) S.I. 1987/1968. Relevant amending instruments are S.I. 1990/2208, 1994/2319, 1999/3178 and 2002/3019.  
 (e) S.I. 1996/207.

- (3) In regulation 25 (entitlement ceasing on a failure to comply)(a)—
- (a) in paragraph (1)(a), for “attend”, substitute “participate in an interview”;
  - (b) in paragraph (1)(b)(i), for the words from “that claimant” to “required to attend” substitute—
    - “that claimant makes contact with an employment officer on the day specified in the relevant notification but fails to participate in an interview at the time specified in that notification, and the Secretary of State has informed that claimant in writing that a failure to participate in an interview, on the next occasion on which he is required to participate in an interview”; and
  - (c) in paragraph (1)(b)(ii) and (iii), for “attend” substitute “participate”.
- (4) In regulation 26 (time at which entitlement is to cease)(b)—
- (a) in paragraph (b), for “attend”, substitute “participate in an interview”; and
  - (b) in the full-out words, for “attended”, substitute “participated in an interview”.
- (5) In regulation 67(2) (sanctions)(c)—
- (a) for “section 19A(2)(c) or (d)” in the first two instances where this reference appears, substitute “section 19(2)(c) or (d)”;
  - (b) for “section 19A(2)(c) or (d) section 19(2)(a) or (b) read with Part V” at the end of the paragraph, substitute “section 19(2)(a), (b), (c) or (d) read with Part V”.
- (6) In regulation 69B (the period of reduction under section 19B: claimants ceasing to be available for employment etc.)(d)—
- (a) in paragraph (3)(b), after “section 1(2)(a)”, insert “or (c)”;
  - (b) in paragraph (7), after “claim”, insert “or where regulation 3(g) of the Claims and Payments Regulations applies, the day before the suspension ends”; and
  - (c) in paragraph (8), after “claim”, insert “or where regulation 3(g) of the Claims and Payments Regulations applies, the date on which the suspension ends”.
- (7) In regulation 70A (cases in which no reduction is to be made under section 19 or 19A)(e)—
- (a) in paragraph (3)(a), (b) and (c), for “attend” substitute “participate”; and
  - (b) in paragraph (4)—
    - (i) for sub-paragraph (a), substitute—
      - “(a) the claimant fails to participate in an interview at the time specified in a relevant notification, but makes contact with an employment officer in the manner set out in the notification on the day specified in the notification;”;
    - (ii) in sub-paragraph (b), for the words from “the Secretary of State” to “required to attend”, substitute—
      - “the Secretary of State has informed the claimant in writing that a failure to participate in an interview at the time specified in a relevant notification, on the next occasion on which a claimant is required to participate in an interview”; and
    - (iii) in sub-paragraphs (c), (d) and (e), for “attend”, substitute “participate in an interview at the time specified”.
- (8) In regulation 75 (interpretation)(f)—
- (a) for paragraph (4), substitute—

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(a) Relevant amending instruments are S.I. 1999/530, 2000/1978, 2194 and 2010/509.

(b) Relevant amending instruments are S.I. 1996/1516, 2000/1978 and 2194.

(c) Relevant amending instruments are S.I. 2000/1978 and 2012/2568.

(d) Regulation 69B was inserted by S.I. 2012/2568.

(e) Regulation 70A was inserted by S.I. 2012/2568.

(f) Paragraph (4) of Regulation 75 has been amended by S.I. 2001/1029, 2008/698 and 2012/2568.

“(4) In section 19 and in this Part, “employment” means employed earner’s employment other than such employment in which a person is employed whilst participating in an employment programme falling within paragraph (1)(a) and “employed earner” shall be construed accordingly; and for the purposes of paragraph (4) of regulation 70C includes self-employment where the claimant’s income as calculated under Part VIII exceeds his applicable amount as calculated under sections 4(1), 12 and 13 of the Act.”; and

(b) in paragraph (5), delete the definition of “employment”.

(9) In regulation 117 (interpretation) in paragraph (e)(ii) of the definition of “payment”(a)—

(a) omit “the payment is”; and

(b) for “rent, housing costs,”, substitute “rent for which housing benefit is payable, housing costs to the extent that they are met under regulations 83(f) or 84(1)(g) (housing costs).”.

(10) After regulation 140(5) (meaning of “person in hardship”)(b) insert—

“(6) In paragraph (5)(b), “resources” does not include any sum, where applicable, specified in paragraph 6B(1) and (2) of Schedule 7 (sums to be disregarded in the calculation of income other than earnings - child tax credit and child benefit).”.

(11) In Schedule 2 (housing costs)(c)—

(a) in paragraph 3(7)(c)(ii) (circumstances in which a person is to be treated as occupying a dwelling as his home), after “pending”, insert “local welfare provision or”; and

(b) in paragraph 17(7)(i) (non-dependant deductions), before “employment and support allowance”, insert “income-related”.

(12) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings)—

(a) after paragraph 33, insert—

“**33A.** Any local welfare provision.”; and

(b) in paragraph 45(d), after “section 13”, insert “, 13A”.

(13) In Schedule 8 (capital to be disregarded)—

(a) after paragraph 23, insert—

“**23A.** Any local welfare provision.”; and

(b) in paragraph 35(e), after “section 13”, insert “, 13A”.

## **Amendments to the Social Security and Child Support (Decisions and Appeals) Regulations 1999**

**5.** In Schedule 3B (date on which change of circumstances takes effect where claimant entitled to state pension credit)(f) to the Social Security and Child Support (Decisions and Appeals) Regulations 1999(g)—

(a) for paragraph 2(h) substitute—

“**2.** Subject to paragraph 3, where the relevant change is that—

(a) the claimant’s income or the income of the claimant’s partner (other than deemed income from capital) has changed;

(b) the claimant or the claimant’s partner becomes entitled to—

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(a) Relevant amending instrument is S.I. 2008/2111.

(b) Regulation 140 has been amended in ways not material to these Regulations.

(c) Paragraph 3(7)(c)(ii) was substituted by S.I. 2006/2378 and paragraph 17(7)(i) was inserted by S.I. 2008/1554, as amended by S.I. 2008/2428. Paragraphs 3 and 17 have been amended in other ways not material to these Regulations.

(d) Paragraph 45 was substituted by S.I. 2008/698.

(e) Paragraph 35 was amended by S.I. 2008/698.

(f) Schedule 3B was inserted by S.I. 2002/3019.

(g) S.I. 1999/991.

(h) Relevant amending instrument is S.I. 2011/674.

- (i) disability living allowance (middle or higher rate care component); or
- (ii) attendance allowance; or
- (c) the claimant or the claimant’s partner again receives either of the allowances mentioned in sub-paragraph (b) above immediately after the end of the period specified in paragraph 2A,

the superseding decision shall take effect on the first day of the benefit week in which that change occurs or if that is not practicable in the circumstances of the case, on the first day of the next following benefit week.”;

- (b) in paragraph 2 (as substituted by paragraph (a) above)—
  - (i) omit “or” at the end of sub-paragraph (b)(i);
  - (ii) after sub-paragraph (b)(ii) insert—
    - “(iii) personal independence payment (standard or enhanced rate daily living component under section 78 of the Welfare Reform Act 2012); or”;
  - (iii) in sub-paragraph (c) for “either of the allowances” substitute “any of the allowances or payments”;
- (c) after paragraph 2, insert—

“**2A.** A period specified for the purposes of paragraph 2 is a period when the claimant or the claimant’s partner is maintained free of charge while undergoing medical or other treatment as an in-patient in—

- (a) a hospital or similar institution under—
  - (i) the National Health Service 2006(a);
  - (ii) the National Health Service (Wales) Act 2006(b); or
  - (iii) the National Health Service (Scotland) Act 1978(c); or
- (b) a hospital or similar institution maintained or administered by the Defence Council.”.

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

**6.—**(1) The State Pension Credit Regulations 2002(d) are amended as follows.

(2) After the definition of “the Jobseeker’s Allowance Regulations” in regulation 1(2) (interpretation), insert—

““local welfare provision” means occasional financial or other assistance given by a local authority, the Scottish Ministers or the Welsh Ministers, or a person authorised to exercise any function of, or provide a service to, them, to or in respect of individuals for the purpose of—

- (a) meeting, or helping to meet, an immediate short term need—
  - (i) arising out of an exceptional event, or exceptional circumstances; and
  - (ii) that requires to be met in order to avoid a risk to the well-being of an individual; or
- (b) enabling individuals to establish or maintain a settled home, where those individuals have been or, without the assistance, might otherwise be—
  - (i) in prison, hospital, a residential care establishment or other institution; or
  - (ii) homeless or otherwise living an unsettled way of life;”.

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(a) 2006 c. 41.  
 (b) 2006 c. 42.  
 (c) 1978 c. 29.  
 (d) S.I. 2002/1792



- (3) In Schedule 2 (housing costs)—
- (a) in paragraph 4(7)(c)(ii)(a) (circumstances in which a person is to be treated as occupying a dwelling as his home), after “pending”, insert “local welfare provision or”; and
  - (b) in paragraph 14(7)(g) (persons residing with the claimant)(b), before “employment and support allowance” insert “income-related”.
- (4) In Schedule 5 (income from capital), at the end of paragraph 20(1)(d)(c), insert—
- “; or
  - (e) by way of local welfare provision including arrears and payments in lieu of local welfare provision; or
  - (f) in consequence of a reduction of council tax under section 13, 13A or 80 of the Local Government Finance Act 1992 (reduction of liability of council tax).”.

### **Amendments to the Housing Benefit Regulations 2006**

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

(2) After the definition of “local housing allowance” in regulation 2(1)(e) (interpretation), insert—

““local welfare provision” means occasional financial or other assistance given by a local authority, the Scottish Ministers or the Welsh Ministers, or a person authorised to exercise any function of, or provide a service to, them, to or in respect of individuals for the purpose of—

- (a) meeting, or helping to meet, an immediate short term need—
  - (i) arising out of an exceptional event, or exceptional circumstances; and
  - (ii) that requires to be met in order to avoid a risk to the well-being of an individual; or
- (b) enabling individuals to establish or maintain a settled home, where those individuals have been or, without the assistance, might otherwise be—
  - (i) in prison, hospital, a residential care establishment or other institution; or
  - (ii) homeless or otherwise living an unsettled way of life;”.

(3) In regulation 7 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—

- (a) in paragraph (8)(c)(ii)(f), after “pending”, insert “local welfare provision or”; and
- (b) for paragraph (16)(c)(i)(g), substitute—

“(i) a person to whom paragraph (16A) applies;” and

(c) after paragraph (16), insert—

“(16A) This paragraph applies to a person (“P”) who is—

- (a) detained in custody on remand pending trial;
- (b) detained pending sentence upon conviction; or
- (c) as a condition of bail required to reside—
  - (i) in a dwelling, other than a dwelling P occupies as P’s home; or

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(a) Paragraph 4 has been amended in ways not material to these Regulations.  
 (b) Paragraph 14(7)(g) was inserted by S.I. 2008/1554, as amended by S.I. 2008/2428. Paragraph 14 has been amended in other ways not material to these Regulations.  
 (c) Paragraph 20(1)(d) was inserted by S.I. 2002/3019, and amended by S.I. 2003/2274 and 2008/3157. Paragraph 20 has been amended in other ways not material to these Regulations.  
 (d) S.I. 2006/213.  
 (e) The definition of “local housing allowance” was inserted by S.I. 2007/2868.  
 (f) Paragraph (8) was amended by S.I. 2007/2618, 2008/1042 and 1082 (as amended by S.I. 2008/2428).  
 (g) Paragraph (16)(c)(i) was amended by S.I. 2008/2767.

- (ii) in premises approved under section 13 of the Offender Management Act 2007,  
and who is not also detained in custody following sentence upon conviction.”.
  - (4) In Schedule 3 (applicable amounts)—
    - (a) in Part 5 (the components) for paragraph 21(a) substitute—
      - “**21.**—(1) Subject to paragraph 22, the claimant is entitled to one, but not both, of the components in paragraph 23 or 24 if—
        - (a) the claimant or the claimant’s partner has made a claim for employment and support allowance;
        - (b) the Secretary of State has determined that the claimant or the claimant’s partner—
          - (i) has limited capability for work or limited capability for work-related activity; or
          - (ii) is to be treated as having limited capability for work other than by virtue of regulation 30 of the Employment and Support Allowance Regulations (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made); and
        - (c) one of the following applies—
          - (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act (interpretation) has ended;
          - (ii) regulation 7 of the Employment and Support Allowance Regulations (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arises does not apply) applies; or
          - (iii) the conditions in sub-paragraph (2) apply.
      - (2) The conditions referred to in sub-paragraph (1)(c)(iii) are—
        - (a) neither the claimant nor the claimant’s partner is entitled to an employment and support allowance;
        - (b) either is or both are entitled to be credited with earnings equal to the lower earnings limit then in force under regulation 8B(2)(a)(iv) of the Social Security (Credits) Regulations 1975 (credits for incapacity for work or limited capability for work); and
        - (c) paragraph (1)(c)(i) or (ii) would have applied to the claimant or the claimant’s partner (or both) had they been entitled to an employment and support allowance.”;
  - (b) in Part 7 (transitional addition) in paragraph 28(b)—
    - (i) in sub-paragraph (1)(c), after “the relevant person”, insert “satisfies the requirements of paragraph 27(1) or”;
    - (ii) in sub-paragraph (3)(c), after “relevant person” insert “no longer satisfying the requirements of paragraph 27(1) or”.
- (5) In Schedule 5 (sums to be disregarded in the calculation of income other earnings)—
  - (a) after paragraph 31, insert—
    - “**31A.** Any local welfare provision.”; and
  - (b) in paragraph 41(c), after “section 13” insert “, section 13A”.
- (6) In Schedule 6 (capital to be disregarded)—

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(a) Paragraph 21 was inserted by S.I. 2008/1082 as amended by S.I. 2008/2428.  
 (b) Paragraph 28 was inserted by S.I. 2010/1907 and amended by S.I. 2012/919.  
 (c) Paragraph 41 was amended by S.I. 2008/698.



- (a) after paragraph 20, insert—
  - “**20A.** Any local welfare provision.”; and
- (b) in paragraph 37, for “or, as the case may be,” substitute “, section 13A or”.

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

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

- (2) After the definition of “local housing allowance” in regulation 2(1) (interpretation), insert—
  - ““local welfare provision” means occasional financial or other assistance given by a local authority, the Scottish Ministers or the Welsh Ministers, or a person authorised to exercise any function of, or provide a service to, them, to or in respect of individuals for the purpose of—
    - (a) meeting, or helping to meet, an immediate short term need—
      - (i) arising out of an exceptional event, or exceptional circumstances; and
      - (ii) that requires to be met in order to avoid a risk to the well-being of an individual; or
    - (b) enabling individuals to establish or maintain a settled home, where those individuals have been or, without the assistance, might otherwise be—
      - (i) in prison, hospital, a residential care establishment or other institution; or
      - (ii) homeless or otherwise living an unsettled way of life;”.

(3) In regulation 7 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—

- (a) in paragraph (8)(c)(ii)(b), after “pending”, insert “local welfare provision or”;
  - (b) for paragraph (16)(c)(i)(c), substitute—
    - “(i) a person to whom paragraph (16A) applies;”;
  - (c) after paragraph (16), insert—
    - “(16A) This paragraph applies to a person (“P”) who is—
      - (a) detained in custody on remand pending trial;
      - (b) detained pending sentence upon conviction; or
      - (c) as a condition of bail required to reside—
        - (i) in a dwelling, other than a dwelling P occupies as P’s home; or
        - (ii) in premises approved under section 13 of the Offender Management Act 2007,
- and who is not also detained in custody following sentence upon conviction.”.

(4) In Schedule 6 (capital to be disregarded)—

- (a) in paragraph 21—
  - (i) after sub-paragraph (1)(e), insert—
    - “(f) by way of local welfare provision including arrears and payments in lieu of local welfare provision.”;
  - (ii) omit “or” at the end of sub-paragraph (2)(l)(d); and

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(a) S.I. 2006/214.  
 (b) Paragraph (8) was amended by S.I. 2007/2618 and 2008/1042.  
 (c) Paragraph (16)(c)(i) was amended by S.I. 2008/2767.  
 (d) Paragraph 21(2)(l) was inserted by S.I. 2005/2502.

- (iii) after sub-paragraph (2)(m)(a) add—
  - “(n) social fund payments”; and
- (b) after paragraph 26D(b), insert—

“**26E.** Any payment in consequence of a reduction of council tax under section 13, 13A or 80 of the Local Government Finance Act 1992 (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.”.

### **Amendments to the Employment and Support Allowance Regulations 2008**

**9.**—(1) The Employment and Support Allowance Regulations 2008(c) are amended as follows.

(2) After the definition of “limited capability for work assessment” in regulation 2(1) (interpretation), insert—

““local welfare provision” means occasional financial or other assistance given by a local authority, the Scottish Ministers or the Welsh Ministers, or a person authorised to exercise any function of, or provide a service to, them, to or in respect of individuals for the purpose of—

- (a) meeting, or helping to meet, an immediate short term need—
  - (i) arising out of an exceptional event, or exceptional circumstances; and
  - (ii) that requires to be met in order to avoid a risk to the well-being of an individual; or
- (b) enabling individuals to establish or maintain a settled home, where those individuals have been or, without the assistance, might otherwise be—
  - (i) in prison, hospital, a residential care establishment or other institution; or
  - (ii) homeless or otherwise living an unsettled way of life;”.

(3) In regulation 119 (interpretation) in paragraph (d)(ii) of the definition of “payment”(d)—

- (a) omit “the payment is”; and
- (b) for “rent, housing costs;”, insert “rent for which housing benefit is payable, housing costs to the extent that they are met under regulation 67(1)(c) or 68(1)(d) (housing costs);”.

(4) In paragraph 5(7)(c)(ii) of Schedule 6 (housing costs) after “pending” insert “local welfare provision or”.

(5) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings)—

- (a) after paragraph 35, insert—
  - “**35A.** Any local welfare provision.”; and
- (b) in paragraph 44, after “section 13”, insert “, section 13A”.

(6) In Schedule 9 (capital to be disregarded)—

- (a) after paragraph 23, insert—
  - “**23A.** Any local welfare provision.”; and
- (b) in paragraph 35(e), after “section 13”, insert “, section 13A”.

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(a) Paragraph 21(2)(m) was inserted by S.I. 2008/1082.  
 (b) Paragraph 26D was inserted by S.I. 2011/2425.  
 (c) S.I. 2008/794.  
 (d) Relevant amending instrument is S.I. 2008/2428.  
 (e) Paragraph 35 was amended by S.I. 2008/2428.

**Amendments to the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013**

10. In paragraph 8 (fuel costs) of Schedule 6 (deductions from benefit and direct payment to third parties) to the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(a)—

- (a) in sub-paragraph (2), for “item of mains gas or mains electricity, including any charges for the reconnection of gas or disconnection or reconnection of electricity (“fuel item””, substitute “fuel item”;
- (b) in sub-paragraph (4)(b), for “that fuel item” substitute, “the fuel in respect of which the debt arose, plus such monthly amount as is required to meet any payments required to be made under a green deal plan within the meaning of section 1 of the Energy Act 2011 (“the 2011 Act”);
- (c) after sub-paragraph (7), add—
  - “(8) In this paragraph, “fuel item” means—
  - (a) any charge for mains gas, including for the reconnection of mains gas;
  - (b) any charge for mains electricity and including any charge for the disconnection and reconnection of mains electricity and including any payments required to be made under a green deal plan within the meaning of section 1 of the 2011 Act.”.

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

25th February 2013

*Freud*  
Parliamentary Under Secretary of State  
Department for Work and Pensions

## EXPLANATORY NOTE

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

These Regulations amend a number of different regulations relating to social security.

Regulations 2(4)(b), 4(11)(b) and 6(3)(b) amend the Income Support (General) Regulations 1987 (S.I. 1987/1967) (“the Income Support Regulations”), the Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207) (“the Jobseeker’s Allowance Regulations”) and the State Pension Credit Regulations 2002 (S.I. 2002/1792) (“the State Pension Credit Regulations”). In specified circumstances a deduction will be made to the amount of housing costs payable to a claimant where a non-dependant person is living in their home. At present, income-related employment and support allowance at the assessment phase rate paid to a non-dependant person aged under-25 living in the claimant’s home is taken into account when calculating the claimant’s entitlement to housing cost for income support, jobseeker’s allowance and state pension credit, but not employment and support allowance or housing benefit. This amendment ensures that this type of payment will not be taken into account when calculating housing costs for all income-related benefits.

Regulations 2(2), (5) and (6), 4(12) and (13), 6(2) and (5), 7(2), (3)(a), (5) and (6), 8(2), (3)(a) and (4) and 9(2), (5) and (6) amend the Income Support Regulations, the Jobseeker’s Allowance Regulations, the State Pension Credit Regulations, the Housing Benefit Regulations 2006 (S.I. 2006/213) (“the Housing Benefit Regulations”), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214) (“the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations”) and the Employment and Support Allowance Regulations 2008 (S.I. 2008/794) (“the Employment and Support Allowance Regulations”) to provide that certain payments made by local government, for welfare purposes and/ or to assist with council tax liability, should be disregarded when assessing the claimants income and/ or capital when assessing eligibility for the benefits covered by those regulations.

Regulations 2(3), 4(9) and 9(3) amend the Income Support Regulations, the Jobseeker’s Allowance Regulations and the Employment and Support Allowance Regulations. In general any payment by a relevant member of the claimant’s family (“a Liable Relative Payment”) to a third party will be taken into account when calculating the claimant’s eligibility for an income-related benefit. In other provisions in the Income Support Regulations, Jobseeker’s Allowance Regulations and Employment and Support Allowance Regulations payments made to third parties for rent for which housing benefit is payable is disregarded where it is not a Liable Relative Payment. The amendments provide for the disregard of a Liable Relative Payment for rent in respect of a claimant’s dwelling made directly to a third party and for which housing benefit is payable to ensure consistency with the other provisions in the relevant regulations.

Regulations 2(4)(a), 4(11)(a), 6(3)(a), and 9(4) amend the Income Support Regulations, the Jobseeker’s Allowance Regulations, the State Pension Credit Regulations and the Employment and Support Allowance Regulations. Currently legislation provides that where a person is waiting to move into a new tenancy and there is a delay following an application for a social fund payment, they can receive any income-related social security benefit they would be entitled to at the new address for up to four weeks prior to moving in. From April 2013 local authority payments will replace some elements of social fund payments and these local authority payments are not currently provided for in relevant income-related social security benefit regulations. These regulations amend legislation to disregard the new local welfare payments, to ensure that people who are unable to move into a new home while waiting for help from their local authority with costs arising from the move or with setting up the new home, can still receive income support, jobseeker’s allowance, state pension credit or employment and support allowance for up to four weeks prior to moving in.

Regulation 3 amends Schedule 9 to the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968) to enable payments under a green deal plan, within the meaning of section 1 of the Energy Act 2011, to be deducted from benefit and paid to the person to whom they are due. Regulation 10 makes similar changes to Schedule 6 to the Universal Credit, Personal

Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (S.I. 2013/380) in relation to universal credit.

Regulation 4 amends the Jobseeker's Allowance Regulations as follows.

— Regulation 4(3), (4) and (7) makes amendments to regulations 25, 26 and 70A respectively of the Jobseeker's Allowance Regulations to reflect the new wording of section 8 of the Jobseekers Act 1995 ("the Jobseekers Act"). Section 8 was amended by the Welfare Reform Act 2012 to replace the requirement for claimants to attend for interview, with a requirement to participate in an interview in such manner, time and place as may be specified.

— Regulation 4(5) amends regulation 67(2) of the Jobseekers Allowance Regulations is amended to correct a section reference that was inserted by the Jobseeker's Allowance (Sanctions) (Amendment) Regulations 2012 (S.I. 2012/2568).

— Regulation 4(6) amends regulation 69B. Regulation 69B provided for a sanction to apply to a new claim following disentitlement for failure to comply with the jobseeking conditions in section 1(2)(a) or (c) of the Jobseekers Act. The sanction takes effect from the date of the new claim. Where benefit has been suspended because of a doubt as to compliance with the jobseeking conditions and the claimant re-complies before the suspension ends, a new claim is not required for payment of benefit to resume under the provisions of regulation 3(g) of the Social Security (Claims and Payments) Regulations 1987. The amendment will ensure that the sanction will apply in such cases from the date the suspension ends.

—Regulation 4(8) amends regulation 75 which contains a definition of "employment". The definition in regulation 75(4) applies for section 19 of the Jobseekers Act and the sanctions part of the Jobseeker's Allowance Regulations. The second part of the definition in regulation 75(4) applies for the purposes of regulation 70C of the Jobseeker's Allowance Regulations. Regulation 70C of the Jobseeker's Allowance Regulations provides for the unexpired period of a sanction on a previous award to be applied to a new award and paragraph (4) provides an exception to this where the claimant has been in employment for a total of at least 26 weeks since the date of the sanctionable failure. In such cases, the balance of the sanction will not be applied to the new award. The amendment to the definition of employment in regulation 75(4) is required to make it clear that the employment referred to in regulation 70C(4) means any employed earner's employment, including self-employment, which provides income sufficient to render the claimant ineligible for means tested Jobseeker's Allowance. The existing definition of employment in regulation 75(5) is deleted.

—Regulation 4(10) provides for amendments to exclude certain resources available in respect of children or young persons in the claimant's family or household from being required to be taken into account in determining whether that person will suffer hardship.

Regulation 5 amends the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (S.I. 1999/991). The provision being amended relates to when changes of circumstances relating to income take effect in relation to awards of state pension credit. The first amendment ensures that the change in circumstances takes effect from the first day of the benefit week in which the change occurs (or if not practicable, from the first day of the next following benefit week) where the change relates to the income of the claimant's partner as well as the claimant's income. The second amendment ensures that where a claimant or their partner receives a disability living allowance (middle or higher rate care component) or attendance allowance again after a period in an NHS hospital or a hospital run by the Defence Council, that change also takes effect from that day. This second amendment is further amended on 8th April 2013 to provide for the introduction of Personal Independence Payments.

Regulations 7(4)(a) amends the Housing Benefit Regulations to provide that people who are entitled to employment and support allowance credits only can also in certain circumstances be entitled to Housing Benefits.

Regulations 7(3)(b) and (c), and 8(3)(b) and (c) amend the Housing Benefit Regulations and the Housing Benefit (Persons who have attained the qualifying age for state pension credit)

Regulations to make provision for certain prisoners who are required to live away from their home as a condition of their bail and prisoners who have not been sentenced but have been detained, to continue to receive Housing Benefit.

A full impact assessment has not been published for this instrument as it has no impact on the costs of business or the voluntary sector.

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STATUTORY INSTRUMENTS

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