

Housing Benefit Circular

Department for Work and Pensions
Caxton House, Tothill Street, London SW1H 9NA

HB A3/2018 (revised)

ADJUDICATION AND OPERATIONS CIRCULAR

WHO SHOULD READ	All Housing Benefit staff
ACTION	For information
SUBJECT	The Social Security (Miscellaneous Amendments No.4) Regulations 2017 The Social Security and Child Support (Care Payments and Tenant Incentive Scheme) (Amendment) Regulations 2017 The Social Security (Miscellaneous Amendments No. 5) Regulations 2017 The Social Security and Child Support (Regulation and Inspection of Social Care (Wales) Act 2016) (Consequential Provision) Regulations 2018

Guidance Manual

The information in this circular does affect the content of the HB Guidance Manual. Please annotate this circular number against *paragraphs A3.450 – A3.460 for notification of Temporary Absence*

Queries

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The Social Security (Miscellaneous Amendments No.4) Regulations 2017

Introduction

1. The Social Security (Miscellaneous Amendments No.4) Regulations 2017 (SI 2017/1015) which make amendments to the Housing Benefit (HB) Regulations 2006 (SI 2006/213) and the HB (persons who have reached the qualifying age for State Pension credit) Regulations 2006 (SI 2006/214) were laid on 24 October 2017.
2. Paragraphs 4-10 detail the changes made by SI 2017/1015 which came into force on 17 November 2017 and apply to Housing Benefit.
3. Other changes made by SI 2017/1015 which don't affect the Housing Benefit regulations will come into force on 6 December 2018.

Treatment of State Pension as income

4. SI 2017/1015 amends SI 2006/214 to make it clear that it is the gross amount of the State Pension, apart from certain adjustments, which is to be taken into account when calculating the HB award.
5. These regulations also add deductions as a result of a pension sharing order to the list of adjustments allowed when calculating a claimant's income for pension age HB purposes.

Pension Flexibilities – notional income calculation

6. Since April 2015 people have had greater flexibility in how they access their pension savings, generally known as 'pension flexibilities'. These flexibilities allow an individual to be able to choose what they want to do with their 'pension pot'. When a pension credit age HB claimant or HB claimant with a partner over the qualifying age for State Pension credit choose not to access their pension pot they can be fixed with notional income.
7. Notional income was calculated by pension providers as per HM Revenue & Customs 'capped drawdown rules', and based on 150% of the maximum annual annuity which could be purchased, calculated with reference to Government Actuary Department (GAD) tables. As capped drawdown effectively no longer exists, this would result in an unfair calculation of notional income being applied to a claimant's HB award.
8. Following the introduction of pension flexibilities in April 2015 and in order to ensure that claimants were not disadvantaged, HB guidance was amended to ensure that the notional income figure provided by pension providers and applied in such cases would be 100% of the rate of the annuity that the pension pot would generate. See circular HB [A7/2015](#) and paragraphs 5 and 6 in bulletin [G6/2015](#).

9. SI 2017/1015 amends the HB regulations to reflect the way LA staff have been calculating the amount of notional income when considering entitlement to HB. This is the rate of annuity that can be purchased by the pension pot. This should be taken to mean 100% of the rate of annuity that the pension pot would generate (calculated with reference to the GAD tables. This information should usually be provided on form PPR1.
10. Regulations 5(3) and (4), 11 and 12 amend the HB Regulations 2006 (S.I. 2006/213), the HB (State Pension Credit) Regulations to make changes to the requirements on pension fund holders to provide evidence and information in relation to pension funds where the pension has not been fully drawn upon.

The Social Security and Child Support (Care Payments and Tenant Incentive Scheme) (Amendment) Regulations 2017

Introduction

11. The Social Security and Child Support (Care Payments and Tenant Incentive Scheme) (Amendment) Regulations 2017 (SI 2017/995) were laid on 17 October 2017 and came into force on 7 November 2017.
12. These regulations made amendments to:
 - the HB Regulations 2006 (SI 2006/213)
 - the HB (persons who have attained the qualifying age for state pension credit) Regulations 2006 (SI 2006/214)
 - HB and Council Tax Benefit (Consequential Provisions) Regulations 2006 (SI 2006/217)

East Lothian Tenant Incentive Scheme

13. SI 2017/995 makes amendments to HB so that tenant incentive schemes are recognised and mirror changes already made to Universal Credit regulations.
14. These amendments have, in the first instance, been prompted by the introduction of a Tenant Incentive Scheme being run by East Lothian Housing Association (the scheme). The scheme in East Lothian is designed to encourage social rented sector tenants to manage their rent payments on time in order to avoid falling in to rent arrears and to interact digitally with their housing provider.
15. The amendments made by SI 2017/995 to SI 2006/213 and SI 2006/214 add a disregard so that the reduction in the claimant's rent (the definition of which includes service charges) is ignored when calculating the claimant's eligible rent; provided that the reduction is being made by a provider under an approved incentive scheme.
16. Similar amendments have been made to SI 2006/217 which relates to older types of tenancies where special rules apply when calculating rent for HB purposes.

17. Similar schemes may be introduced in other parts of Great Britain, therefore, they too could be reflected in HB, if approved by the Secretary of State.

Kinship care and continuing care in Scotland

Kinship Care

18. Under section 73 (1) of the Children and Young People (Scotland) Act 2014, payments can be made to a person who has or is applying for, or considering applying for, a kinship care order for a child who is at risk of going into care or who was previously looked after by a local authority (LA).
19. This type of kinship care assistance is in the form of an allowance paid to the carer of the child until that child is 16, at which point the child may be entitled to an allowance in their own right.
20. These payments do not cover the cost of accommodation and maintenance of the child but, instead, are aimed at helping with additional costs which would normally be provided to children living at home, for example, extra-curricular activities.
21. SI 2017/995 makes amendments to SI 2006/213 so that Kinship Care payments made under section 73(1) (b) of The Children and Young People (Scotland) Act 2014 are disregarded as both income and capital when assessing entitlement to HB.
22. No amendment was needed to SI 2006/214 as the payments are automatically disregarded as they are not listed as income or capital to be taken into account.
23. SI 2017/995 also makes amendments to both SI 2006/213 and SI 2006/214 so that payments made under Section 73 are not classed as earnings of self-employed claimants.

Continuing care

24. SI 2017/995 also makes amendments to both SI 2006/213 and SI 2006/214 so that payments made under section 26A of the Children (Scotland) Act 1995 (Continuing Care) cannot be counted as earnings of self-employed earners.

The Social Security (Miscellaneous Amendments No.5) Regulations 2017

Introduction

25. The Social Security (Miscellaneous Amendments No.5) Regulations 2017 (SI 2017/1187) were laid on 1 December 2017. Some provisions came into force on 21 December 2017 and some will come into force on 6 December 2018.

26. SI 2017/1187 made amendments to:

- the HB Regulations 2006 (SI 2006/213)
- the HB (Persons who have attained the qualifying age for State Pension credit) Regulations 2006 (SI 2006/214)

Temporary absence – duty to notify a period of absence outside Great Britain

27. Claimants over the qualifying age for State Pension Credit who are in receipt of HB are required to notify their LA if they will be absent from their usual home for more than 13 weeks. Since July 2016 absences from home outside Great Britain are limited to 4 weeks.

28. SI 2017/1187 amends SI 2006/214 so that where a claimant knows that they are likely to be absent from home outside Great Britain for 4 weeks or more they must notify their LA. This amendment came into force on 21 December 2017.

Equalisation of State Pension Age

29. Due to the equalisation of the State Pension age for men and women, which comes into effect in November 2018, and to future-proof against any future increases to State Pension qualifying age, amendments have been made by SI 2017/1187 to both SI 2006/213 and SI 2006/214.

30. The amendments are to various regulations which currently refer to the differences in qualifying ages for men and women. These provisions will come into force on 6 December 2018. Further guidance will be issued nearer to the coming into force date.

The Social Security and Child Support (Regulation and Inspection of Social Care (Wales) Act 2016) (Consequential Provision) Regulations 2018

Introduction

31. The Social Security and Child Support (Regulation and Inspection of Social Care (Wales) Act 2016) (Consequential Provision) Regulations 2018 (SI 2018/228) were laid on 23 February 2018 and come into force on 2 April 2018.

32. SI 2018/228 makes amendments to:

- the HB Regulations 2006 (SI 2006/213 and
- the HB (Persons who have reached the qualifying age for State Pension Credit) Regulations 2006 (SI 2006/214).

33. SI 2018/228 makes amendments to SI 2006/213 and SI 2006/214 as a consequence of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) by updating references in regulation 2(1) definition of a care home so that the definition will point to the relevant section of “the Act”.

34. Amendments have also been made to regulation 28 of SI 2006/213 and regulation 31 in SI 2006/214 (treatment of child care charges) by substituting a reference to 'the Domiciliary Care Agencies (Wales) Regulations 2004 with a reference to the Regulation and Inspection of Social Care (Wales) Act 2016'.