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STATUTORY INSTRUMENTS

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**2006 No. 213**

**The Housing Benefit Regulations 2006**

**[<sup>F1</sup>PART 8A**

**Benefit cap**

**[<sup>F1</sup>Exception to the benefit cap: receipt of specified benefit**

**75F.—(1)** The benefit cap does not apply where—

- (a) the claimant or the claimant's partner is receiving an employment and support allowance under Part 1 of the Welfare Reform Act which includes a support component;
- (b) the claimant or the claimant's partner is receiving an industrial injuries benefit by virtue of Part 5 of the Act;
- (c) the claimant or the claimant's partner is receiving an attendance allowance;
- (d) the claimant or the claimant's partner is receiving a war pension;
- (e) the claimant, the claimant's partner or a child or young person for whom the claimant or the claimant's partner is responsible, is receiving a disability living allowance;

[ the claimant, the claimant's partner or a child or young person for whom the claimant or  
<sup>F2</sup>(eza) the claimant's partner is responsible, is receiving child disability payment;]

(ea) the claimant, the claimant's partner or a young person for whom the claimant or the claimant's partner is responsible, is receiving a personal independence payment<sup>F3</sup>, adult disability payment] or an armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;

(f) the claimant, the claimant's partner or a child or young person for whom the claimant or the claimant's partner is responsible is entitled to a payment listed in sub-paragraph (b), (c), (d), (e) [<sup>F4</sup>, (eza)] or (ea) but—

- (i) that person is not receiving it under regulation 6 (hospitalisation) or regulation 7 (persons in care homes) of the Social Security (Attendance Allowance) Regulations 1991;
- (ii) it is withheld under article 53 of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006 (maintenance in hospital or an institution);
- (iii) that person is not receiving it under regulation 8 (hospitalisation) or regulation 9 (persons in care homes) of the Social Security (Disability Living Allowance) Regulations 1991;
- (iv) that payment is not payable in accordance with regulations made under section 85 (care home residents) or section 86(1) (hospital in-patients) of the Welfare Reform Act 2012;

[ in the case of adult disability payment, that payment is not payable in accordance  
<sup>F5</sup>(iva) with regulation 27 (effect of admission to a care home on ongoing entitlement to daily living component) or regulations 28 (effect of admission to hospital on ongoing

entitlement to Adult Disability Payment) of the Disability Assistance for Working Age People (Scotland) Regulations 2022.]

[ that person is not receiving it under regulation 17 (effect of admission to a care home <sup>F6</sup>(v) on ongoing entitlement to care component) of the DACYP Regulations;]

(g) the claimant is receiving universal credit.

[ the claimant, the claimant's partner, or a young person for whom the claimant or the <sup>F7</sup>(h) claimant's partner is responsible, is entitled to a carer's allowance under section 70 of the Act;

[ the claimant, the claimant's partner, or a young person for whom the claimant or the <sup>F8</sup>(ha) claimant's partner is responsible, is entitled to carer support payment;]

(i) the claimant, the claimant's partner or a young person for whom the claimant or the claimant's partner is responsible, is entitled to a guardian's allowance under section 77 of the Act.]

(2) In this regulation "war pension" has the meaning in regulation 2 (interpretation) and includes—

(a) a guaranteed income payment;

(b) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;

(c) a payment which is made under any of—

(i) the Order in Council of 19th December 1881;

(ii) the Royal Warrant of 27th October 1884;

(iii) the Order by His Majesty of 14th January 1922,

to a widow, widower or surviving civil partner of a person whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown and whose service in such capacity terminated before 31st March 1973

(d) a pension paid by the government of a country outside Great Britain which is analogous to a war pension or any of the pensions or payments mentioned in sub-paragraphs (a) to (c).]

### Textual Amendments

**F1** Pt. 8A inserted (15.4.2013) by [The Benefit Cap \(Housing Benefit\) Regulations 2012 \(S.I. 2012/2994\)](#), regs. 1, **2(5)** (as amended by [S.I. 2013/388](#), reg. 2, [Sch. para. 51](#); [S.I. 2013/546](#), regs. 1, **2**; and [S.I. 2013/591](#), art. 2(1), [Sch. para. 48\(2\)](#))

**F2** [Reg. 75F\(1\)\(eza\)](#) inserted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance for Children and Young People\) \(Consequential Modifications\) Order 2021 \(S.I. 2021/786\)](#), art. 1(2), [Sch. 5 para. 5](#)

**F3** Words in [reg. 75F\(1\)\(ea\)](#) inserted (21.3.2022) by [The Social Security \(Disability Assistance for Working Age People\) \(Consequential Amendments\) Order 2022 \(S.I. 2022/177\)](#), arts. 1(2), **9(5)(a)**

**F4** Word in [reg. 75F\(1\)\(f\)](#) inserted (22.11.2021) by [The Social Security \(Scotland\) Act 2018 \(Information-Sharing and Disability Assistance\) \(Consequential Provision and Modifications\) Order 2021 \(S.I. 2021/1188\)](#), arts. 1(2), **10(2)(a)**

**F5** [Reg. 75F\(1\)\(f\)\(iva\)](#) inserted (21.3.2022) by [The Social Security \(Disability Assistance for Working Age People\) \(Consequential Amendments\) Order 2022 \(S.I. 2022/177\)](#), arts. 1(2), **9(5)(b)**

**F6** [Reg. 75F\(1\)\(f\)\(v\)](#) inserted (22.11.2021) by [The Social Security \(Scotland\) Act 2018 \(Information-Sharing and Disability Assistance\) \(Consequential Provision and Modifications\) Order 2021 \(S.I. 2021/1188\)](#), arts. 1(2), **10(2)(b)**

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**Changes to legislation:** *There are currently no known outstanding effects for the The Housing Benefit Regulations 2006, Section 75F. (See end of Document for details)*

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- F7** Reg. 75F(1)(h)(i) inserted (7.11.2016) by The Benefit Cap (Housing Benefit and Universal Credit) (Amendment) Regulations 2016 (S.I. 2016/909), regs. 1(1), **2(4)**
- F8** Reg. 75F(1)(ha) inserted (19.11.2023) by The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Amendments) Order 2023 (S.I. 2023/1218), arts. 1(2), **17(3)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Housing Benefit Regulations 2006, Section 75F.