

2007 No. 2474

SOCIAL SECURITY

**The Housing Benefit (Loss of Benefit) (Pilot Scheme)
(Supplementary) Regulations 2007**

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| <i>Made</i> | - - - - | <i>23rd August 2007</i> |
| <i>Laid before Parliament</i> | | <i>29th August 2007</i> |
| <i>Coming into force</i> | - - | <i>1st November 2007</i> |

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 130B(11), 130D(3), 130F(1), (3) to (5) and (7), 130G, 137(1) and 175(3), (4) and (5) of the Social Security Contributions and Benefits Act 1992(a).

In accordance with section 176(1) of the Social Security Administration Act 1992(b) the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

This instrument contains only regulations made by virtue of, or consequential upon, section 31 of the Welfare Reform Act 2007 (c) and is made before the end of the period of 6 months beginning with the coming into force of that section(d).

Citation, commencement and duration

1.—(1) These Regulations may be cited as the Housing Benefit (Loss of Benefit) (Pilot Scheme) (Supplementary) Regulations 2007 and shall come into force on 1st November 2007.

(2) These Regulations shall cease to have effect on 31st October 2009 unless revoked with effect from an earlier date.

Interpretation

2.—(1) In these Regulations—

“the Pilot Scheme Regulations” means the Housing Benefit (Loss of Benefit) (Pilot Scheme) Regulations 2007(e);

(a) 1992 c. 4. Sections 130B to 130G were inserted by section 31(1) of the Welfare Reform Act 2007 (c.5). Section 137(1) is cited for the definition of “prescribed”.

(b) 1992 c.5.

(c) 2007 c.5.

(d) See section 173(5) of the Social Security Administration Act 1992. The requirement to refer Regulations to the Social Security Advisory Committee does not apply where Regulations are contained in a statutory instrument made before the end of the period of 6 months beginning with the coming into force of the enactment under which the regulations were made or consequential upon a specified enactment and made before the end of the period of 6 months beginning with the coming into force of that enactment.

(e) S.I. 2007/2202.

“rehabilitation services” means the services referred to in section 130B(10), namely services provided by a relevant local authority to a former occupier with the aim of ending, or preventing repetition of, the conduct which may lead or has led to the making of a relevant order for possession(a);

“relevant authority” and “relevant decision” have the same meaning as in paragraph 1 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(b).

(2) Unless the context otherwise requires, any reference in these Regulations to a numbered section or Schedule is a reference to the section of or Schedule to, the Social Security Contributions and Benefits Act 1992 bearing that number.

Application of pilot scheme

3. These Regulations apply in relation to a former occupier(c) only where the following conditions are satisfied in his case—

- (a) the relevant order for possession(d) relates to a dwelling which is within the area of a relevant authority specified in the Schedule to the Pilot Scheme Regulations and was made on or after the date there specified in relation to that authority;
- (b) the warning notice(e) was served on him by a relevant local authority specified in that Schedule on or after the date there specified in relation to that authority;
- (c) housing benefit is awarded in respect of a dwelling which is within the area of a relevant authority specified in that Schedule.

Warning notice

4. The warning notice served under section 130B(2) must be in writing.

Matters which are to be taken into account in determining good cause

5.—(1) In determining whether a person has, or does not have, good cause for failing to take action specified in a warning notice, the matters and circumstances which are to be taken into account include the following—

- (a) any condition or personal circumstance of that person which indicates that taking the action specified in the warning notice would be likely to or did—
 - (i) cause significant harm to his health; or
 - (ii) subject him to excessive physical or mental stress;
- (b) the person was suffering from some disease or bodily or mental disablement on account of which—
 - (i) he could not take the action specified in the warning notice;
 - (ii) taking the action specified in the warning notice would have put his health at risk; or
 - (iii) taking the action specified in the warning notice would have put at risk the health of other persons;
- (c) whether the person misunderstood the requirement on him because of that person’s learning, language or literacy difficulties or because of any misleading information contained in the warning notice;
- (d) the fact that the failure to take the action in question resulted from a sincerely held religious or conscientious objection;

(a) See section 130B(1).

(b) 2000 c.19. Paragraph 1(1) of Schedule 7 defines a “relevant authority” as an authority administering housing benefit or council tax benefit.

(c) See section 130B(1).

(d) See section 130B(1).

(e) See section 130B(2).

- (e) any caring responsibilities which would, or did, make it unreasonable for the person to take the action in question;
- (f) the fact that the person was attending court as a party to any proceedings, or as a witness or a juror;
- (g) the fact that the person was arranging or attending the funeral of—
 - (i) his partner;
 - (ii) a close friend; or
 - (iii) a parent, step-parent, grandparent, parent-in-law, son, step-son, son-in-law, daughter, step-daughter, daughter-in-law, brother, sister, grand-child or, if one member of the preceding is a member of a couple, the other member of that couple;
- (h) the fact that the person was engaged in—
 - (i) the manning or launching of a lifeboat; or
 - (ii) the performance of duty as a part-time fire-fighter employed by a fire and rescue authority;
- (i) the fact that the person was required to deal with some domestic emergency;
- (j) the fact that the person was engaged during an emergency in duties for the benefit of others;
- (k) subject to paragraph (2), the time it took, or would normally take, for the person to travel to and from the place mentioned in the warning notice where the action in question was to have been taken by a route and means appropriate to his circumstances and to the action which was to have been taken;
- (l) the expense which was, or would be, necessarily incurred by the person for the purposes of taking the action in question, together with the cost of travelling to and from the place mentioned in the warning notice where the action in question was to have been taken by a route and means appropriate to his circumstances and to the action which was to have been taken;
- (m) any difficulty with the person's normal mode of transport and whether there was any reasonable available alternative;
- (n) whether the person was attending a medical or dental appointment, or accompanying a person for whom the person has caring responsibilities to such an appointment, and whether it would have been unreasonable, in the circumstances, to rearrange the appointment;
- (o) whether the person was unable to take the action in question because of his employment responsibilities; and
- (p) whether the person was searching for or moving to a suitable dwelling to occupy as his home.

(2) The time it took, or would normally take, for the person to travel to and from the place mentioned in the warning notice where the action in question was to have been taken may only be taken into account if the time is more than one hour and thirty minutes each way unless, in view of his health or caring responsibilities, that time was or is unreasonable.

(3) In this regulation—

- (a) “caring responsibilities” means responsibility for caring for a child or for an elderly person or for a person whose physical or mental condition requires him to be cared for, who is either in the same household or a close relative;
- (b) “elderly person” means a person of over pensionable age;
- (c) “employment responsibilities” means—
 - (i) attending an interview for employment;
 - (ii) carrying out employed earner's employment; or
 - (iii) carrying out self-employed earner's employment.

- (d) “partner” means—
 - (i) where a claimant is a member of a couple, the other member of that couple;
 - (ii) where a claimant is polygamously married to two or more members of his household, any such member.

Circumstances in which a person is to be regarded as having good cause

6. A person is to be regarded as having good cause for failing to take any action specified in a warning notice if the time specified in the warning notice for taking the action is less than one week after the date the warning notice was issued.

Notification by relevant authority where sanction for anti-social behaviour applies

7.—(1) Except where paragraph (2) applies, regulation 90 of the Housing Benefit Regulations 2006(a) (notification of decisions) applies to a decision made under section 130B (loss of housing benefit following eviction on certain grounds) as if that decision had been made under those regulations.

(2) Where the claimant has attained the qualifying age for state pension credit, regulation 71 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(b) (notification of decisions) applies to decisions made under section 130B as if the decision had been made under those Regulations.

Amendment of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

8. The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(c) are to apply subject to the following amendments—

- (a) in regulation 1 (citation, commencement and interpretation) at the appropriate places insert—
 - ““the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;”;
 - and
 - ““the Pilot Scheme Regulations” means the Housing Benefit (Loss of Benefit) (Pilot Scheme) Regulations 2007;”;
- (b) in regulation 4 (revision of decisions) after paragraph (7F)(d) insert—
 - “(7G) Where the court makes a relevant order for possession, as defined in section 130C of the Contributions and Benefits Act (relevant orders for possession) and the order is set aside, a decision in accordance with regulation 7(2)(k) may be revised at any time.”;
- (c) in regulation 7(2) (decisions superseding earlier decisions) after sub-paragraph (j) add—
 - “(k) that housing benefit is payable to a claimant where that benefit is reduced under regulation 4 of the Pilot Scheme Regulations (reduction of benefit);
 - (l) made under sub-paragraph (k) and the claimant is a person in hardship under regulation 5 of the Pilot Scheme Regulations (meaning of “person in hardship”);
 - (m) made under sub-paragraph (k) or (l) where section 130B(6) of the Contributions and Benefits Act applies so that the restriction period under that section stops running;
 - (n) made under sub-paragraph (m) where section 130B(6) of that Act applies so that the restriction period starts running again.”;

(a) S.I. 2006/213.
 (b) S.I. 2006/214.
 (c) S.I. 2001/1002.
 (d) Paragraph (7F) was inserted by S.I. 2006/644.

- (d) in regulation 8 (date from which a decision superseding an earlier decision takes effect) after paragraph (14A)(a) insert—

“(14B) A decision to which regulation 7(2)(k) applies shall take effect in accordance with regulation 4 of the Pilot Scheme Regulations;

(14C) A decision to which regulation 7(2)(l) applies shall take effect on the day the claimant first represented himself to be a person in hardship in accordance with regulation 5 of the Pilot Scheme Regulations.”.

Amendment of the Discretionary Financial Assistance Regulations 2001

9. At the end of regulation 3 of the Discretionary Financial Assistance Regulations 2001(b) (circumstances in which discretionary housing payments may be made), add—

“(m) a reduction of housing benefit imposed pursuant to section 130B of the Social Security Contributions and Benefits Act 1992 (loss of housing benefit following eviction on certain grounds).”.

Provision of information by court to Secretary of State

10.—(1) Where, in respect of a dwelling situated in the area of an authority specified in the Schedule to the Pilot Scheme Regulations, a court—

- (a) makes a relevant order for possession;
- (b) suspends or stays the execution of a relevant order for possession or postpones the date for possession;
- (c) varies the terms of a relevant order for possession; or
- (d) sets aside a relevant order for possession

the court must notify the Secretary of State in writing within 4 weeks of doing so.

(2) When the court notifies the Secretary of State under paragraph (1), it must provide—

- (a) the name of the court which made the order which is the subject of the notification;
- (b) the date when the order for possession was made;
- (c) the date when any stay, suspension, postponement or variation was ordered;
- (d) the date when the order for possession was set aside;
- (e) the case or claim number of the order for possession and any subsequent orders to stay, suspend, vary or set it aside;
- (f) the name of the person against whom the order was made and, if known, the name of any members of that person’s household;
- (g) the full postal address, including postcode, of the person against whom the order was made; and
- (h) details of any conditions attached to the order.

(3) The Secretary of State may request a court to provide, in relation to a relevant order for possession, any of the information listed in paragraphs (1) and (2).

(4) Where the Secretary of State requests information under paragraph (3), the court must send the information to the Secretary of State within the period of 4 weeks beginning on the date when the request for information was issued.

(5) In this regulation, “court” means a county court, the High Court, the Court of Appeal and the Judicial Committee of the House of Lords.

(a) Paragraph (14A) was inserted by S.I. 2005/2677.

(b) SI 2001/1167. Regulation 3 was amended by S.I. 2006/217, S.I. 2001/1711 and SI 2002/490.

Supply of relevant information to Secretary of State for housing benefit purposes

11.—(1) The relevant local authority, or person authorised to exercise any function of such an authority relating to rehabilitation services, must notify the Secretary of State or any person providing services to him if any of the following occur—

- (a) the person against whom the relevant order for possession was made leaves the dwelling which is the subject of the order;
- (b) the former occupier has been awarded housing benefit;
- (c) the former occupier has been served with a warning notice;
- (d) the former occupier has failed to comply with that notice;
- (e) the former occupier's housing benefit has been reduced under section 130B(4)(a);
- (f) the restriction period has stopped running or starts running again under section 130B(6).

(2) Information supplied under paragraph (1) must be supplied in writing within 4 weeks of the event to which it relates.

Provision of relevant information for purposes relating to housing benefit administration

12.—(1) The following authorities and persons, namely—

- (a) a relevant authority;
- (b) a person authorised to exercise any function of a relevant authority relating to housing benefit;
- (c) a relevant local authority; or
- (d) a person authorised to exercise any function of a relevant local authority relating to rehabilitation services

must provide any information specified in paragraph (2) which is held by that authority or person to an authority or person mentioned in sub-paragraphs (a) or (b) if requested in writing by that authority or person.

(2) The information that must be provided is information which relates to a person who has been served with a warning notice; and—

- (a) is information about the relevant order for possession made against that person; or
- (b) relates to any action in relation to that person that may need to be taken by the authority in connection with sections 130B (loss of benefit following eviction on certain grounds), 130D (loss of housing benefit: supplementary) and 130E (couples).

(3) Information received under paragraph (1) may be used only for any purpose relating to the administration of housing benefit.

(4) The information must be provided within the period of 4 weeks beginning with the date when the authority or person receives the written request.

(5) This regulation does not limit the circumstances in which information may be supplied apart from this regulation.

Provision of relevant information for use in the provision of rehabilitation services

13.—(1) The following authorities and persons, namely—

- (a) a relevant authority;
- (b) a person authorised to exercise any function of a relevant authority relating to housing benefit;
- (c) a relevant local authority, or
- (d) a person authorised to exercise any function of a relevant local authority relating to the services mentioned in section 130B(10)

must provide any information specified in paragraph (2) held by that authority or person to an authority or person mentioned in sub-paragraphs (c) or (d) if requested in writing by that authority or person.

(2) The information which must be provided is information which—

- (a) relates to a person who has been served with a warning notice; and
- (b) is relevant to the provision of rehabilitation services to that person by the authority to whom the information is provided.

(3) Information received under paragraph (1) may be used only in the provision of rehabilitation services.

(4) The information must be provided within the period of 4 weeks beginning with the date when the authority or person receives the written request.

(5) This regulation does not limit the circumstances in which information may be supplied apart from this regulation.

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

23rd August 2007

Mike O'Brien
Minister of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contain provisions which supplement the Housing Benefit (Loss of Benefit) (Pilot Scheme) Regulations 2007 (“the Pilot Scheme Regulations”). These additional provisions apply where a housing benefit sanction is to be imposed for anti-social behaviour.

Regulation 1 deals with commencement and provides that the Regulations will cease to apply at the end of the pilot period.

Regulation 2 contains definitions.

Regulation 3 provides that these Regulations apply only in the pilot scheme areas listed in the Schedule to the Pilot Scheme Regulations.

Regulation 4 specifies that the warning notice which must be served before a housing benefit sanction for anti-social behaviour can be imposed must be in writing.

Regulation 5 sets out matters which are to be taken into account in determining whether a person has good cause for not taking the action specified in a warning notice.

Regulation 6 specifies that a person will have good cause for not taking the action specified in a warning notice if the notice was issued less than one week before the date specified for taking the action.

Regulation 7 provides that the provisions relating to notification of decisions in the Housing Benefit Regulations 2006 and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) apply to decisions made under these Regulations.

Regulation 8 modifies the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 in respect of persons to whom these Regulations apply.

Regulation 9 provides that a discretionary housing payment may not be made where the reason for the financial hardship is because a sanction for anti-social behaviour has been imposed.

Regulation 10 imposes duties on a court which makes a relevant possession order in respect of a dwelling situated in a pilot scheme area. The court is required to disclose information about relevant possession orders to the Secretary of State and specifies the time and manner in which such information must be provided. It also requires a court to provide such information when requested to do so by the Secretary of State.

Regulation 11 requires relevant local authorities to inform the Secretary of State or any person providing services to him if one or more of the conditions listed in section 130B(1) to (3) of the Social Security Contributions and Benefits Act 1992 are met.

Regulation 12 requires relevant authorities and relevant local authorities to provide information to a relevant authority.

Regulation 13 requires relevant authorities and relevant local authorities to provide information to a relevant local authority.

These Regulations have no impact on business, charities and the voluntary sector. However, an assessment of the impact of the provisions in these Regulations is included in the Regulatory Impact Assessment that accompanied the Welfare Reform Bill. A copy of that Assessment has been placed in the libraries of both Houses of Parliament. Copies may be obtained from the Better Regulation Unit of the Department for Work and Pensions, level 4, The Adelphi, 1-11 John Adam Street, London WC 2N 6HT.

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