

2008 No. 3195

SOCIAL SECURITY

**The Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations
2008**

Made - - - - - 15th December 2008

Laid before Parliament 15th December 2008

Coming into force in accordance with regulation 1(2) and (3)

CONTENTS

1. Citation, commencement and interpretation

PART 1

Amendments relating to the standard rate of interest

2. Amendments relating to the standard rate of interest (*revoked*)

PART 2

Modifications relating to certain claimants who are entitled to a relevant benefit on 4th January 2009

3. Application
4. Modification of the Employment and Support Allowance Regulations
5. Modification of the Income Support Regulations
6. Modification of the Jobseeker's Allowance Regulations
7. Saving

PART 3

Modifications relating to certain persons who claim a relevant benefit after 4th January 2009

8. Application and interpretation
9. Modification of the Employment and Support Allowance Regulations
10. Modification of the Income Support Regulations
11. Modification of the Jobseeker's Allowance Regulations

PART 4

Modifications relating to certain persons who claim State Pension Credit

12. Modifications relating to certain persons who claim State Pension Credit

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) and (4) of the Social Security Contributions and Benefits Act 1992(**a**), sections 4(5), 35(1) and 36(2) and (4) 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) and (3), 24(1) and 25(2), (3) and (5) of the Welfare Reform Act 2007(**d**).

It appears to the Secretary of State that by reason of the urgency of the matter, it is inexpedient to refer proposals in respect of 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 and Modification) Regulations 2008.

(2) Regulations 4 to 6, 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 2009.

(3) The remaining provisions of these Regulations come into force on 5th January 2009.

(4) In these Regulations—

“benefit week” has the same meaning as in—

- (a) regulation 2(1) of the Employment and Support Allowance Regulations(**f**), where the relevant benefit is an employment and support allowance;
- (b) regulation 2(1) of the Income Support Regulations(**g**), where the relevant benefit is income support;
- (c) regulation 1(2) of the Jobseeker’s Allowance Regulations(**h**), where the relevant benefit is a jobseeker’s allowance;

“housing costs” has the same meaning as in paragraph 1(1) (housing costs) of—

- (a) Schedule 6 to the Employment and Support Allowance Regulations, where the relevant benefit is an employment and support allowance;
- (b) Schedule 3(**i**) to the Income Support Regulations, where the relevant benefit is income support;

(a) 1992 c. 4. Section 137(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”. Paragraph 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 173(1)(a) of the Social Security Administration Act 1992 (c. 5).

(f) S.I. 2008/794.

(g) S.I. 1987/1967.

(h) S.I. 1996/207.

(i) Schedule 3 was substituted by S.I. 1995/1613.

(c) Schedule 2 to the Jobseeker's Allowance Regulations, where the relevant benefit is a jobseeker's allowance;

"relevant benefit" means—

- (a) an employment and support allowance;
- (b) income support;
- (c) a jobseeker's allowance;

"the Employment and Support Allowance Regulations" means the Employment and Support Allowance Regulations 2008;

"the Income Support Regulations" means the Income Support (General) Regulations 1987;

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations 1996;

"the State Pension Credit Regulations" means the State Pension Credit Regulations 2002(a).

PART 1

Amendments relating to the standard rate of interest

2. ▶¹◀

¹Reg. 2 revoked by reg. 3 of S.I. 2010/1811 on or after 1.10.10. See reg. 1 to this S.I. for when to apply in certain situations.

PART 2

Modifications relating to certain claimants who are entitled to a relevant benefit on 4th January 2009

Application

3.—(1) This Part applies in relation to a person who—

- (a) is entitled to a relevant benefit on 4th January 2009; and
- (b) on or after that date falls within paragraph (3) or (4).

(2) This Part ceases to apply in relation to a person who makes a further claim to the same, or claims another, relevant benefit after 4th January 2009.

(3) A person falls within this paragraph if, apart from these Regulations, the housing costs to be met in the benefit week that includes 4th January 2009 would be nil in that person's case because ▶²that person◀ has not been entitled to the relevant benefit concerned for the period mentioned in sub-paragraph (1)(a) in any of the following provisions—

- (a) paragraph 8 (existing housing costs) or paragraph 9 (new housing costs)(b) of Schedule 6 to the Employment and Support Allowance Regulations;
- (b) paragraph 6 (existing housing costs)(c) or paragraph 8 (new housing costs)(d) of Schedule 3 to the Income Support Regulations;

²Words substituted in reg. 3(3) by reg. 2 of S.I. 2009/3257 as from 5.1.10.

(a) S.I. 2002/1792.

(b) Paragraph 9 was amended by S.I. 2008/2428.

(c) Paragraph 6 was amended by S.Is. 1995/2927, 1997/2305, 2002/3019 and 2008/1554.

(d) Paragraph 8 was amended by S.Is. 1995/2927, 1996/206, 1997/2305, 2002/3019 and 2008/1554.

- (c) paragraph 6 (existing housing costs)(a) or paragraph 7 (new housing costs)(b) of Schedule 2 to the Jobseeker's Allowance Regulations.

¹Words substituted in reg. 3(4) by reg. 2 of S.I. 2009/3257 as from 5.1.10.

(4) A person falls within this paragraph if ¹that person¹ has been entitled to a relevant benefit for a continuous period, which includes 4th January 2009, for at least 8 weeks but less than 26 weeks under any of the provisions mentioned in paragraph (5) as in force apart from these Regulations.

(5) The provisions are—

- (a) paragraph 8(1)(b) (existing housing costs) or paragraph 9(6) (new housing costs) of Schedule 6 to the Employment and Support Allowance Regulations;
- (b) paragraph 6(1)(b) (existing housing costs) or paragraph 8(4) (new housing costs) of Schedule 3 to the Income Support Regulations;
- (c) paragraph 6(1)(b) (existing housing costs) or paragraph 7(6) (new housing costs) of Schedule 2 to the Jobseeker's Allowance Regulations.

Modification of the Employment and Support Allowance Regulations

4. Schedule 6 (housing costs) to the Employment and Support Allowance Regulations applies in relation to a person to whom this Part applies as if—

- (a) in paragraph 8(1) (existing housing costs) the reference to “26” were to “13” in each place it appears;
- (b) in paragraph 9(1) (new housing costs) the reference to “39” were to “13”;
- (c) in paragraph 12(4) (general provisions applying to new and existing housing costs)(c) the reference to “£100,000” were to “£200,000”;
- (d) in paragraph 15(14) (linking rule)(d)—
- (i) in head (a) the reference to “26” were to “13”;
- (ii) in head (b) the reference to “39” were to “13”.

Modification of the Income Support Regulations

5. Schedule 3 (housing costs) to the Income Support Regulations applies in relation to a person to whom this Part applies as if—

- (a) in paragraph 6(1) (existing housing costs) the reference to “26” were to “13” in each place it appears;
- (b) in paragraph 8(1) (new housing costs) the reference to “39” were to “13”;
- (c) in paragraph 11(5) (general provisions applying to new and existing housing costs)(e) the reference to “£100,000” were to “£200,000”;
- (d) in paragraph 14(9) (linking rule)—
- (i) in head (a) the reference to “26” were to “13”;
- (ii) in head (b) the reference to “39” were to “13”.

Modification of the Jobseeker's Allowance Regulations

6. Schedule 2 (housing costs) to the Jobseeker's Allowance Regulations applies in relation to a person to whom this Part applies as if—

- (a) after paragraph 4 (housing costs not met)(f) there were inserted—

(a) Paragraph 6 was amended by S.Is. 1997/2305, 2000/1978, 2002/3019 and 2008/1554.

(b) Paragraph 7 was amended by S.Is. 1996/1516, 1997/2305, 2000/1978 and 2008/2428.

(c) Paragraph 12 was amended by S.I. 2008/2428.

(d) Paragraph 15 was amended by S.I. 2008/2428.

(e) Paragraph 11 was amended by S.I. 1995/2927.

(f) Paragraph 4 was amended by S.Is. 1996/1517, 1996/2538, 1997/2863, 2000/1978, 2005/2687, 2007/3183 and 2008/698.

“Housing costs: limitation applicable to qualifying loans

4A.—(1) Subject to sub-paragraphs (2) and (3), no amount may be met in respect of housing costs under paragraph 14 or 15 where the claimant has been in receipt of housing costs under either or both of those paragraphs for a total of 104 weeks.

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

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

(a) the claimant or his ¹partner or, if the claimant is a member of a joint-claim couple, the other member of the couple, was previously entitled to income support or employment and support 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.”

²(4) In determining whether the exemption provided for in sub-paragraph (3) applies, where the claimant or his partner or, if the claimant is a member of a joint-claim couple, the other member of the couple was in receipt of a jobseeker’s allowance immediately before becoming entitled to income support by virtue of regulation 6(6) of the Income Support Regulations, no account shall be taken of entitlement arising by virtue of that regulation.◀

(b) in paragraph 6(1) (existing housing costs) the reference to “26” were to “13” in each place it appears;

(c) in paragraph 7(1) (new housing costs) the reference to “39” were to “13”;

(d) in paragraph 10(4) (general provisions applying to new and existing housing costs)(a) the reference to “£100,000” were to “£200,000”;

(e) in paragraph 13(11) (linking rule)—

(i) in head (a) the reference to “26” were to “13”;

(ii) in head (b) the reference to “39” were to “13”.

¹Word omitted & reg. 8 substituted by regs. 3 & 4 of S.I. 2009/3257 as from 5.1.10 or for reg. 8 on the first day of the first benefit week to commence for that person on or after 5.1.10.

²Words inserted in reg. 6(a) modifications by reg. 26(2) of S.I. 2011/2425 as from 31.10.11.

Saving

7. Nothing in this Part is to affect the applicable amount of a person to whom this Part applies in respect of—

(a) any period ending before the date on which these Regulations come into force, or

(b) any period ending after that date throughout which he or she is entitled to the relevant benefit concerned for a continuous period that does not exceed 12 weeks.

PART 3

Modifications relating to certain persons who claim a relevant benefit after 4th January 2009

Application and interpretation

¹**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.

(a) Paragraph 10 was amended by S.I. 1996/1516.

- (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 the 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
 - (c) C does not fall to be treated under a linking rule as being in continuous receipt of the relevant benefit during the period which falls immediately between the date on which a claim to which this provision relates is made to 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—
 - (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)◀

(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.

- (4) A claimant falls within this paragraph if—
- (a) the claimant or his or her partner or, if the claimant is a member of a joint-claim couple, the other member of the couple, was in receipt of state pension credit;
 - (b) the claimant—
 - (i) is entitled to a relevant benefit; or
 - (ii) was previously entitled to a relevant benefit at any time after 4th January 2009; and
 - (c) none of the following provisions apply or applied in relation to the entitlement referred to in sub-paragraph (b)(i) or (ii).
- (5) The provisions are—
- (a) paragraph 3(2) (previous entitlement to other income-related benefits) of Schedule 6 to the Employment and Support Allowance Regulations;
 - (b) paragraph 1A(1A) (previous entitlement to income-based jobseeker's allowance, income-related employment and support allowance or state pension credit)(a) of Schedule 3 to the Income Support Regulations;
 - (c) paragraph 1A(1ZA) or (1B) (previous entitlement to income support, income-related employment and support allowance or state pension credit)(b) of Schedule 2 to the Jobseeker's Allowance Regulations.
- (6) In this Part—
- “joint-claim couple” has the meaning given in section 1(4) of the Jobseekers Act 1995;
- “linked period” means a period in respect of which the claimant was required to be treated as being in receipt of a relevant benefit under the provisions of—
- (a) paragraph 15 (linking rule) of Schedule 6 to the Employment and Support Allowance Regulations;
 - (b) paragraph 14 (linking rule) of Schedule 3 to the Income Support Regulations; or (as the case maybe)
 - (c) paragraph 13 (linking rule) of Schedule 2 to the Jobseeker's Allowance Regulations.

Modification of the Employment and Support Allowance Regulations

9. Schedule 6 (housing costs) to the Employment and Support Allowance Regulations applies in relation to a person to whom this Part applies as if—

- (a) in paragraph 1(2) (housing costs) the definitions of “existing housing costs” and “new housing costs” were omitted;
- (b) paragraph 8 (existing housing costs) were omitted;
- (c) in paragraph 9 (new housing costs)—
 - (i) the reference to “new” were omitted—
 - (aa) in the heading, and
 - (bb) in sub-paragraphs (1) and (2),
 - (ii) in sub-paragraph (1) the reference to “39” were to “13”,
 - (iii) sub-paragraphs (4) to (7) were omitted;
- (d) in paragraph 10 (general exclusions from paragraphs 8 and 9)—
 - (i) in the heading “paragraph 9” were substituted for “paragraphs 8 and 9”,
 - (ii) in sub-paragraph (1) “Paragraph 9” were substituted for “Paragraphs 8 and 9”;

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

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

- (e) in paragraph 11 (the calculation for loans) the reference to “existing housing costs, or as the case may be, new housing costs” were to “housing costs”;
- (f) in paragraph 12 (general provisions applying to new and existing housing costs)–
 - (i) for the heading there were substituted “General provisions applying to housing costs”;
 - (ii) sub-paragraphs (1) and (2) were omitted;
 - (iii) in sub-paragraph (4), the reference to “£100,000” were to “£200,000”;
- (g) in paragraph 14(9) (excessive housing costs) “paragraph 9” were substituted for “paragraphs 8 and 9”;
- (h) in paragraph 15 (linking rule)–
 - (i) in sub-paragraph (2) the reference to “paragraph 8(1)(a)(i) or” were omitted;
 - (ii) in sub-paragraph (6)(a) the reference to “8(1) or” were omitted;
 - (iii) for sub-paragraph (14) there were substituted–

“(14) Where sub-paragraph (13) applies, in determining for the purposes of paragraph 9(1) whether a person has been entitled to an income-related allowance for a continuous period of 13 weeks or more, any week falling between the date of the termination of the previous award and the date of the new claim is to be ignored.”;
 - (iv) in sub-paragraph (18) the reference to “8(1)(a), 8(1)(b) or” were omitted;
 - (i) in paragraph 20 (continuity with income support, an income-based jobseeker’s allowance or state pension credit) sub-paragraph (1)(a) were omitted.

Modification of the Income Support Regulations

10. Schedule 3 (housing costs) to the Income Support Regulations applies in relation to a person to whom this Part applies as if–

- (a) in paragraph 1(2) (housing costs)(a) the definitions of “existing housing costs” and “new housing costs” were omitted;
- (b) paragraph 6 (existing housing costs) were omitted;
- (c) in paragraph 8 (new housing costs)–
 - (i) the reference to “new” were omitted–
 - (aa) in the heading, and
 - (bb) in sub-paragraphs (1) and (1A),
 - (ii) in sub-paragraph (1) the reference to “39” were to “13”,
 - (iii) sub-paragraphs (2) to (5) were omitted;
- (d) in paragraph 9 (general exclusions from paragraphs 6 and 8)(b)–
 - (i) in the heading “paragraph 8” were substituted for “paragraphs 6 and 8”,
 - (ii) in sub-paragraph (1) “Paragraph 8” were substituted for “Paragraphs 6 and 8”;
- (e) in paragraph 10 (the calculation for loans)(c) the reference to “existing housing costs, or as the case may be, new housing costs” were to “housing costs”;
- (f) in paragraph 11 (general provisions applying to new and existing housing costs)–
 - (i) for the heading there were substituted “General provisions applying to housing costs”;
 - (ii) sub-paragraphs (2) and (3) were omitted;

(a) Head (a) in the definition of “existing housing costs” was substituted by S.I. 2004/2825.

(b) Paragraph 9 was amended by S.I. 2002/3019.

(c) Paragraph 10 was substituted by S.I. 2001/3651 and amended by S.I. 2004/2825.

- (iii) in sub-paragraph (5), the reference to “£100,000” were to “£200,000”;
- (g) in paragraph 13(9) (excessive housing costs)(a) “paragraph 8” were substituted for “paragraphs 6 and 8”;
- (h) in paragraph 14 (linking rule)–
 - (i) in sub-paragraph (2)(b) “paragraph 6(1)(a)(i) or” were omitted,
 - (ii) in sub-paragraph (3AA)(a)(c) the reference to “6(1) or” were omitted,
 - (iii) for sub-paragraph (9) there were substituted–

“(9) Where sub-paragraph (8) applies, in determining for the purposes of paragraph 8(1) whether a person has been entitled to income support for a continuous period of 13 weeks or more, any week falling between the date of the termination of the previous award and the date of the new claim is to be ignored.”;
 - (iv) in sub-paragraph (13)(d) the reference to “6(1)(a), 6(1)(b) or” were omitted.

Modification of the Jobseeker’s Allowance Regulations

11. Schedule 2 (housing costs) to the Jobseeker’s Allowance Regulations applies in relation to a person to whom this Part applies as if–

- (a) in paragraph 1(2) (housing costs)(e) the definitions of “existing housing costs” and “new housing costs” were omitted;
- ▶¹(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 ▶²(7)◀ 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 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.”◀

▶²(4) In determining whether the exemption provided for in sub-paragraph (3) applies, where the claimant or his partner or, if the claimant is a member of a joint-claim couple, the other member of the couple was in receipt of a jobseeker’s allowance

¹Words in reg. 11(b) substituted by reg. 5 of S.I. 2009/3257 as from the first day of first benefit week to commence for that person on or after 5.1.10.

²Words inserted in reg. 11(b) modifications by reg. 26(3) of S.I. 2011/2425 as from 31.10.11.

(a) Paragraph 13 was amended by S.I. 1999/3178.
(b) Paragraph 14(2) was amended by S.Is. 1999/3178 and 2001/158.
(c) Paragraph 14(3AA) was inserted by S.I. 1999/1921 and amended by S.I. 2006/2378.
(d) Paragraph 14(13) was amended by S.I. 2002/841.
(e) The definition of “existing housing costs” was substituted by S.I. 2004/2825.

Reg. 12

immediately before becoming entitled to income support by virtue of regulation 6(6) of the Income Support Regulations, no account shall be taken of entitlement arising by virtue of that regulation.◀

PART 4

*Modifications relating to certain persons who claim State Pension Credit***Modifications relating to certain persons who claim State Pension Credit**

12.—(1) This Part applies where—

- (a) a person becomes entitled to state pension credit;
- (b) that person or that person's partner ceases to be entitled to a relevant benefit;
- (c) that person or ▶¹that person's◀ partner is a person to whom ▶¹—
 - (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.◀
- (d) the last day on which the person or ▶¹that person's◀ partner was entitled to a relevant benefit was no more than 12 weeks before—
 - (i) except where head (ii) applies, the first day of entitlement to state pension credit; or
 - (ii) where the claim for state pension credit was treated as made on a day earlier than the day on which it was actually made (“the actual date”), the day which would have been the first day of entitlement to state pension credit had the claim been treated as made on the actual date; and
- (e) in the period immediately before the date on which the person's entitlement to the relevant benefit ended, ▶¹that person's◀ applicable amount included an amount in respect of housing costs under any of the provisions mentioned below.

(2) The provisions are—

- (a) paragraph 16 (loans on residential property) or 17 (loans for repairs and improvements to the dwelling occupied as the home) of Schedule 6 to the Employment and Support Allowance Regulations;
- (b) paragraph 15 (loans on residential property) or 16 (loans for repairs and improvements to the dwelling occupied as the home) of Schedule 3 to the Income Support Regulations;
- (c) paragraph 14 (loans on residential property) or 15 (loans for repairs and improvements to the dwelling occupied as the home) of Schedule 2 to the Jobseeker's Allowance Regulations.

(3) Paragraph 8(2) (general provisions applying to housing costs)(a) of Schedule 2 to the State Pension Credit Regulations is to apply in relation to a person to whom this Part applies as if the reference to “£100,000” were to “£200,000”.

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

15th December 2008

Kitty Ussher
Parliamentary Under-Secretary of State,
Department for Work and Pensions

(a) Paragraph 13(8) was amended by S.I. 2007/2618.

Words in reg. 12(1)(c) (d) & (e) substituted by reg. 6 of S.I. 2009/3257 as from 5.1.10 or for reg. 12(1)(c) on the first day of the first benefit week to commence for that person on or after 5.1.10.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend and modify the housing costs provisions in the Employment and Support Allowance Regulations 2008, the Income Support (General) Regulations 1987, the Jobseeker's Allowance Regulations 1996 and the State Pension Credit Regulations 2002.

Part 1 amends the standard rate which is used to calculate the amount of interest on a loan that will be met under the Regulations referred to above. It provides that the standard rate is to be 6.08% instead of the rate being determined by reference to the Bank of England base rate.

Part 2 modifies the Employment and Support Allowance Regulations, the Income Support Regulations and the Jobseeker's Allowance Regulations in relation to certain existing claimants who are entitled to an employment and support allowance, income support or a jobseeker's allowance ("a relevant benefit") on 4th January 2009.

Regulation 3 deals with the application of Part 2. It provides that Part 2 applies where the claimant is not entitled to housing costs because the person does not satisfy the applicable waiting period or (in some cases) he or she is entitled to housing costs at a reduced rate. Regulation 3 also provides that Part 2 does not apply if a person makes a further claim to a relevant benefit after 4th January 2009.

In the case of a claimant to whom Part 2 applies, regulations 2 to 4 modify the provisions relating to the housing costs that can be met by an employment and support allowance, income support or a jobseeker's allowance in the following ways:

— by reducing the 26 week or (as the case may be) 39 week qualifying period before housing costs may be met to 13 weeks (regulations 4(b) and (d), 5(b) and (d) and 6(b) and (c));

— by providing that the maximum appropriate amount in respect of loans that qualify under the Regulations is £200,000 instead of £100,000 (regulations 4(c), 5(c) and 6(d));

— by providing that no amount may be met in respect of interest on a qualifying loan where a jobseeker's allowance claimant has been in receipt of interest on a qualifying loan for 104 weeks (regulation 6(a)), although this limitation does not apply where the person was previously entitled to income support or an employment and support allowance within a period of 12 weeks or less.

Regulation 7 is a savings provision and clarifies that Part 2 does not affect the amount of housing costs to which a person is entitled in respect of a period ending before these Regulations come into force or in respect of a period which ends after that date during which the person is entitled to the benefit concerned for a continuous period that does not exceed 12 weeks.

Part 3 concerns certain persons who claim a relevant benefit after 4th January 2009.

Regulation 8 deals with the application and interpretation of Part 3. It provides that this Part applies where Part 2 applied to the person at any time. It also provides that Part 3 applies where a person claims or claimed relevant benefit at any time after 4th January 2009:

— which is not or was not immediately preceded by a linked period under the housing costs linking rules; or

— where the claimant, that person's partner or, in the case of a joint-claim for a

jobseeker's allowance, the other member of the couple, was previously entitled to state pension credit and more than 12 weeks (26 weeks in some cases) has elapsed since the last day of entitlement to state pension credit.

Part 3 makes the following modifications to the housing costs provisions of the Employment and Support Allowance Regulations, the Income Support Regulations, and the Jobseeker's Allowance Regulations in relation to a person to whom that Part applies:

— it provides that a person who is required to satisfy a qualifying period before housing costs may be met must have been continuously entitled to the benefit in question for a continuous period of at least 13 weeks (regulations 9(c), 10(c) and 11(d));

— it provides that the maximum appropriate amount in respect of loans that qualify under the Regulations is £200,000 instead of £100,000 (regulations 9(f), 10(f) and 11(g));

— it provides that no amount may be met in respect of interest on a qualifying loan a jobseeker's allowance claimant has been in receipt of interest on a qualifying loan for a total of 104 weeks as part of a continuous period of entitlement or periods separated by a linked period under the housing costs linking rules. As in the case of Part 2, the limitation does not apply where the person was previously entitled to income support or an employment and support allowance within a period of 12 weeks or less (regulation 11(b)).

Part 4 modifies the State Pension Credit Regulations 2002 with the result that in certain cases the maximum appropriate amount in respect of loans which qualify under those Regulations is £200,000. Part 4 applies where a person or his or her partner was in receipt of housing costs under Part 2 or 3 of these Regulations and the person becomes entitled to state pension credit within 12 weeks of that entitlement ending.

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