

2015 No. 6

SOCIAL SECURITY

The Housing Benefit and Housing Benefit (Persons who have attained the qualifying age for state pension credit) (Income from earnings) (Amendment) Regulations 2015

<i>Made</i>	- - - -	<i>6th January 2015</i>
<i>Laid before Parliament</i>		<i>12th January 2015</i>
<i>Coming into force</i>	- -	<i>9th February 2015</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 136(3) and (4), 136A(3) and 137(1) of the Social Security, Contributions and Benefits Act 1992(a).

The Social Security Advisory Committee has agreed the proposals in respect of these Regulations should not be referred to it(b).

In accordance with section 176(1) of the Social Security Administration Act 1992(c), consultation has taken place with organisations which appear to the Secretary of State to be representative of the authorities concerned.

Citation and commencement

1. These Regulations may be cited as the Housing Benefit and Housing Benefit (Persons who have attained the qualifying age for state pension credit) (Income from earnings) (Amendment) Regulations 2015 and come into force on 9th February 2015.

Amendment to the Housing Benefit Regulations 2006

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

(2) In paragraph (2) of regulation 29 (Average weekly earnings of employed earners) after “if he has received any earnings” insert “or expects to receive an amount of earnings”.

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- (a) 1992 c.4. Section 136A was inserted by the State Pension Credit Act 2002 (c.16), Schedule 2, paragraph 3. Sections 136 and 136A were repealed, to the extent they related to Council Tax Benefit, by the Welfare Reform Act 2012 (c.5), Schedule 14, paragraph 1 with effect from 1 April 2013 and subject to savings and transitional provisions in articles 9 and 10 of S.I. 2013/358. Section 137(1) is cited for the meaning of “prescribed”.
- (b) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992 (c.5).
- (c) Section 176(1) was amended by the Local Government Finance Act 1992 (c.26), Schedule 9, paragraph 23, the Child Support, Pensions and Social Security Act 2000 (c.19), section 69(6), and the Housing Act 1996 (c.52), Schedule 13, paragraph 3(4). Section 176 was repealed, to the extent it related to Council Tax Benefit, by the Welfare Reform Act 2012, Schedule 14, paragraph 1 with effect from 1 April 2013 and subject to savings and transitional provisions in articles 9 and 10 of S.I. 2013/358.
- (d) S.I. 2006/213.

(3) After regulation 29 (Average weekly earnings of employed earners) insert—

“Date on which income consisting of earnings from employment as an employed earner are taken into account

29A.—(1) A claimant’s average weekly earnings from employment estimated pursuant to regulation 29 (Average weekly earnings of employed earners) and Section 3 (Employed earners) of this Part shall be taken into account—

- (a) in the case of a claim, on the date that the claim was made or treated as made and the first day of each benefit week thereafter, regardless of whether those earnings were actually received in that benefit week;
- (b) in the case of a claim or award where the claimant commences employment, the first day of the benefit week following the date the claimant commences that employment, and the first day of each benefit week thereafter, regardless of whether those earnings were actually received in that benefit week; or
- (c) in the case of a claim or award where the claimant’s average weekly earnings from employment change, the first day of the benefit week following the date of the change, and the beginning of each benefit week thereafter, regardless of whether those earnings were actually received in that benefit week.”.

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

3.—(1) Regulation 33 (Calculation of weekly income)(a) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(b) is amended as follows.

(2) In paragraph (1) after “paragraph (2)” insert “, (2A), (3A)”.

(3) After paragraph (2) insert—

“(2A) Income calculated pursuant to paragraph (2) shall be taken into account—

- (a) in the case of a claim, on the date the claim was made or treated as made, and the first day of each benefit week thereafter;
- (b) in the case of a claim or award where the claimant commences employment, the first day of the benefit week following the date the claimant commences that employment, and the first day of each benefit week thereafter; or
- (c) in the case of a claim or award where the claimant’s average weekly earnings from employment change, the first day of the benefit week following the date the claimant’s earnings from employment change so as to require recalculation under this paragraph, and the first day of each benefit week thereafter,

regardless of whether those earnings were actually received in that benefit week.”.

(4) After paragraph (3) insert—

“(3A) A claimant’s earnings from employment as an employed earner not calculated pursuant to paragraph (2) shall be taken into account—

- (a) in the case of a claim, on the date that the claim was made or treated as made and the first day of each benefit week thereafter;
- (b) in the case of a claim or award where the claimant commences employment, the first day of the benefit week following the date the claimant commences that employment, and the first day of each benefit week thereafter; or

(a) Regulation 33 was amended by S.I. 2007/1619 and S.I. 2009/583.
(b) S.I. 2006/214.

- (c) in the case of a claim or award where the claimant's average weekly earnings from employment change, the first day of the benefit week following the date of the change, and the beginning of each benefit week thereafter,

regardless of whether those earnings were actually received in that benefit week.”.

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

6th January 2015

Freud
Parliamentary Under Secretary of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit Regulations 2006 (S.I. 2006/213) and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214).

Regulation 2 amends the Housing Benefit Regulations 2006. It amends regulation 29 to provide that a decision maker should calculate a claimant's average weekly income from employment by reference to any amount of earnings the claimant expects to receive, as well as any earnings they have received.

Regulation 2 also inserts a new provision which clarifies when a claimant's average weekly earnings from employment calculated pursuant to regulation 29 should be taken into account. It provides that those earnings should be taken into account either: in the case of a new claim, on the date of the claim and the first day of each benefit week thereafter; or in the case of a claim, the first day of the benefit week following the day the claimant commenced employment, or the first day of the benefit week following the date the claimant's earnings changed so as to require a re-estimation under regulation 29, and the first day of each benefit week thereafter, even if a claimant does not actually receive those earnings from their employer in that week.

Regulation 3 makes similar amendments to regulation 33 (Calculation of weekly income) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

A full impact assessment has not been produced for this instrument as it has no impact on the private sector or civil society organisations.

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