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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Housing Benefit Regulations 2006 (S.I. 2006/213) (“the Housing Benefit Regulations”), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214) and the State Pension Credit Regulations 2002 (S.I. 2002/1792) (“the State Pension Credit Regulations”).

Regulation 7(11) and (12) of the Housing Benefit Regulations provides that a person who enters residential accommodation on a trial basis for the purpose of ascertaining whether the accommodation satisfies his or her needs, can receive housing benefit in respect of his or her former dwelling for up to 13 weeks. Regulation 2(2)(a) of these Regulations amends regulation 7(11) of the Housing Benefit Regulations so that it only applies where the person enters residential accommodation in Great Britain. Regulation 2(2)(b) makes a consequential amendment to regulation 7(12).

Regulation 7(13) of the Housing Benefit Regulations provides that a person is treated as occupying the dwelling that the person normally occupies as his or her home (“main dwelling”) where the person is temporarily absent from that dwelling, for up to 13 weeks, provided that: the person intends to return to occupy the dwelling, the dwelling is not let or, as the case may be, sub-let, and the period of absence is unlikely to exceed 13 weeks. Regulation 7(13) currently makes no distinction between absences within and outside of Great Britain.

Regulation 2(2)(c) of these Regulations substitutes a new paragraph (13) into regulation 7 so that that paragraph only applies to persons who are temporarily absent from their home within Great Britain.

Regulation 2(2)(d) of these Regulations inserts new paragraphs into regulation 7. The new paragraphs provide that:

- the period of 13 weeks under paragraph (13) runs or continues to run during any period of absence from Great Britain (new paragraph (13A));
- if, after a period of absence outside Great Britain, a person returns to Great Britain within 13 weeks of the first day of absence from the main dwelling and, whilst abroad, the person ceased to be treated as occupying the main dwelling as his or her home, paragraph (13) does not apply to the person with effect from the time that the person returns to Great Britain (new paragraph (13B));
- where a person is absent from Great Britain and occupied the main dwelling as his or her home, or was treated as so occupying it, immediately before the period of absence, the person is to be treated as occupying the main dwelling as his or her home for a period of up to 4 weeks beginning on the first day of the person's absence from Great Britain (new paragraphs (13C) and (13D));
- if the absence from Great Britain is in connection with the death of: a partner, a child or young person for whom the person or the person's partner is responsible, a close relative of the person or the person's partner or a close relative of a child or young person for whom the person or the person's partner is responsible, then the period of 4 weeks may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return within the first 4 weeks (new paragraph (13E));
- if the person is absent from Great Britain and is a member of Her Majesty's forces posted overseas, a mariner or a continental shelf worker, the person is to be treated as occupying the main dwelling as his or her home whilst the person is temporarily absent, for up to 26 weeks

**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016. (See end of Document for details)

beginning on the first day of the person's absence from Great Britain (new paragraphs (13F) and (13G)).

Regulation 2(2)(e) to (g) of these Regulations amends paragraphs (16) and (17) of regulation 7 of the Housing Benefit Regulations. These paragraphs currently provide that a person is to be treated as occupying the main dwelling as his or her home for up to 52 weeks where the person is temporarily absent therefrom in the circumstances set out in paragraph (16).

Regulation 2(2)(f) of these Regulations amends paragraph (17) of regulation 7 and regulation 2(2)(g) inserts new paragraphs (17A) to (17D) into that regulation. Those new paragraphs provide that where a person to whom paragraph (16) applies is absent from Great Britain, the person is to be treated as occupying the dwelling as his or her home for up to 4 weeks beginning on the first day of his or her absence from Great Britain, unless the person is a person to whom any of paragraphs (ii), (iii), (vii) and (x) of paragraph (16)(c) apply, in which case the person is to be treated as occupying the dwelling for up to 26 weeks.

The period remains at 52 weeks if the person is absent within Great Britain. The period of 52 weeks under paragraph (17) runs or continues to run during any period of absence from Great Britain, but if a person returns to Great Britain after a period of absence abroad within 52 weeks beginning with the first day of absence from the main dwelling and, whilst abroad, the person ceased to be treated as occupying the main dwelling as his or her home, then paragraph (17) does not apply to that person when the person returns to Great Britain.

Linked to these changes, regulation 2(2)(e) makes various technical changes to paragraph (16) of regulation 7. In particular it amends paragraph (16)(d) to reduce the period that the absence must be unlikely to exceed, or in exceptional circumstances unlikely substantially to exceed, so as to align with the changes to periods of time referred to above.

Regulation 2(2)(h), (3) and (4) of these Regulations makes amendments which are consequential to the above changes.

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

Regulation 3 of the State Pension Credit Regulations currently allows for a claimant's entitlement to state pension credit to continue where the claimant is absent from Great Britain for up to 13 weeks, the period of absence is unlikely to exceed 52 weeks and the claimant continues to satisfy the other conditions of entitlement during his or her absence. Regulation 4(2) of these Regulations inserts new regulation 3 into the State Pension Credit Regulations which replaces this 13 week period with a 4 week period, provided the absence is not expected to exceed 4 weeks. New regulation 3(2) provides that a claimant's entitlement can continue for up to 8 weeks where the absence is in connection with the death of the claimant's partner, or a child or qualifying young person normally living with the claimant, or the death of a close relative of one of these or a close relative of the claimant. New regulation 3(3) allows for entitlement to continue during an absence of up to 26 weeks where the claimant is undergoing medical treatment or convalescence or care, or is accompanying a partner or a child or qualifying young person normally living with the claimant for medical treatment or convalescence or care.

Regulation 4(5) inserts a definition of "qualifying young person" into the State Pension Credit Regulations.

Regulation 5(1)(f) of the State Pension Credit Regulations currently allows for a person to continue to be treated as being a member of the claimant's household when the person is absent from Great Britain for up to 13 weeks. Regulation 4(6) amends this so that the person is subject to similar rules on temporary absence as the claimant.

Regulation 4(7), (9) and (10) makes changes to certain Schedules to the State Pension Credit Regulations so that the definitions of "qualifying young person" and "child" cross-refer to regulation 4A of those Regulations and section 40 of the Welfare Reform Act 2012 (c.5) respectively.

Regulation 4(8) applies the provisions relating to polygamous marriages to regulation 3 of the State Pension Credit Regulations.

Regulation 5 makes transitional provision such that the amendments in regulations 2 and 3 do not apply in respect of a person who is temporarily absent from Great Britain on 28th July 2016 until he or she returns to Great Britain unless the person is a member of Her Majesty's forces posted overseas, a continental shelf worker or a mariner. Regulation 5 also provides that regulation 4 does not apply to a person who is temporarily absent from Great Britain on 28th July 2016 until the person returns to Great Britain.

An impact assessment has not been produced for this instrument as it has no new impact on business or civil society organisations.

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