

EXPLANATORY MEMORANDUM TO

THE HOUSING BENEFIT (PERSONS WHO HAVE ATTAINED THE QUALIFYING AGE FOR STATE PENSION CREDIT) (AMENDMENT) REGULATIONS 2021

2021 No. 188

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is to add new personal allowance rates into the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. These rates will be used to assess entitlement to Housing Benefit for people who reach state pension age on or after 1 April 2021.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Great Britain.
4.2 The territorial application of this instrument is Great Britain.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The personal allowance rates used to assess entitlement to Housing Benefit (HB) for people over State Pension age currently incorporate an amount equivalent to the Savings Credit element in Pension Credit. The Savings Credit element of Pension Credit was abolished for people reaching State Pension age from 6 April 2016 when the new State Pension was introduced, but it was decided to retain the higher personal allowances in HB for a further five years. This instrument makes the changes needed to reflect that decision by introducing new personal allowance rates for people reaching State Pension age on or after 1 April 2021 that do not include the Savings Credit element.

7. Policy background

What is being done and why?

- 7.1 For pensioners who do not automatically qualify for maximum HB through receipt of the Guarantee Credit¹ element of Pension Credit, HB is calculated by comparing their income with their “applicable amount” comprising a personal allowance for a single person or couple as appropriate, plus additional amounts for extra needs, where relevant. If their income exceeds their applicable amount, the maximum amount that may be awarded for their rent costs is reduced by 65% of the excess income. In “pension age” HB² the personal allowances are currently based on the equivalent Pension Credit rates (the “Standard Minimum Guarantee” plus the maximum amount of the Savings Credit element of Pension Credit).
- 7.2 Savings Credit was intended to provide a modest reward for those aged 65 and over who had made some provision for retirement, for example through saving in an occupational pension. While income reduces the Guarantee Credit part of Pension Credit £ for £, Savings Credit “gave back” up to 60% of income between a specified threshold and the Standard Minimum Guarantee, so ensuring an overall income above the level of the Guarantee Credit. Pensioners whose income exceeded the Guarantee Credit could still qualify for a payment of Savings Credit only.
- 7.3 To ensure any Savings Credit payments were not taken into account in the calculation of HB, the personal allowance for everyone over 65 was increased by the Savings Credit maximum, so raising the threshold at which income started to reduce the HB award. For ease of administration, the increased personal allowance rates applied irrespective of whether the pensioner was in receipt of Savings Credit, or was receiving less than the maximum.
- 7.4 The new State Pension was introduced on 6 April 2016 at a rate set above the level of the Standard Minimum Guarantee which the Government considered removed the need for a savings reward in Pension Credit. Accordingly, Savings Credit has not been available to people reaching State Pension age on or after that date, but it was decided to retain the higher HB personal allowances for the first five cohorts retiring onto the new State Pension to ensure that those with incomes only slightly above the Guarantee Credit would not see any impact on their HB.
- 7.5 As a consequence the HB personal allowance rates for those reaching State Pension age from 1 April 2021 will no longer include the Savings Credit element i.e. the rates will be the same as the Standard Minimum Guarantee. This change does not apply to those who reach State Pension age before 1 April 2021 or to couples where one member reached State Pension age before that date. People affected by this change see a notional loss as they will receive less HB than if the rules hadn’t changed.
- 7.6 Discretionary Housing Payments can be paid to those entitled to Housing Benefit who face a shortfall in meeting their housing costs. There is no limit to the length of time over which a Discretionary Housing Payment award may be made. It may be awarded for a short period to give a claimant time to deal with their financial circumstances or

¹ The Guarantee Credit comprises the Standard Minimum Guarantee plus as appropriate additional amounts for those who have caring responsibilities, severe disability or certain housing costs.

² “Pension age” Housing Benefit here refers to Housing Benefit awarded under the Housing Benefit (persons who have reached the qualifying age for state pension credit) Regulations 2006

for an indefinite period until their circumstances change. The start and end dates of an award are decided by local authorities on a case-by-case basis.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 Informal consolidated text of instruments is available to the public free of charge via 'The National Archives' website: www.legislation.gov.uk.

10. Consultation outcome

10.1 The Department presented the draft Regulations to the Social Security Advisory Committee (SSAC) on 27 January 2021. The Committee did not take the regulations on formal reference.

10.2 The Department has a statutory duty to consult on amendments to Housing Benefit regulations with the Local Authority Associations. They had no comments.

11. Guidance

11.1 The guidance about the changes to Housing Benefit will be available on the 'Housing Benefit for local authorities' section of Gov.UK which can be found at <https://www.gov.uk/government/collections/housing-benefit-for-local-authorities-circulars>.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because these Regulations have no impact on business.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is to monitor the impact through our regular liaison with the Local Authority Associations.

15. Contact

15.1 Ursula Brennan at the Department for Work and Pensions Telephone: 0207 449 5257 or email: Ursula.a.brennan@dwp.gov.uk can be contacted with any queries regarding the instrument.

15.2 Vicki Kennedy, Deputy Director for Housing Policy, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Will Quince at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.