

2022 No. 942

SOCIAL SECURITY

The Housing Benefit and Universal Credit (Victims of Domestic Abuse and Victims of Modern Slavery) (Amendment) Regulations 2022

<i>Made</i> - - - -	<i>5th September 2022</i>
<i>Laid before Parliament</i>	<i>8th September 2022</i>
<i>Coming into force</i> - -	<i>1st October 2022</i>

The Secretary of State, in exercise of the powers conferred by sections 123(1)(d), 130A(2), (3) and (5), 137(1) and 175(1) and (3) to (5) of the Social Security Contributions and Benefits Act 1992(a) and sections 11(4), 40, 42(1) to (3) and (6), 96(1), (4)(a) and (10) and 97(1) of the Welfare Reform Act 2012(b) makes the following Regulations.

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(c), the Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it.

In respect of provisions relating to housing benefit, in accordance with section 176(1) of the Social Security Administration Act 1992(d), the Secretary of State has consulted with organisations appearing to her to be representative of the authorities concerned.

In respect of provisions relating to universal credit, in accordance with section 29(7) of the Scotland Act 2016(e), the Secretary of State has consulted with the Scottish Ministers in the making of these Regulations.

Citation, Commencement and Extent

1.—(1) These Regulations may be cited as the Housing Benefit and Universal Credit (Victims of Domestic Abuse and Victims of Modern Slavery) (Amendment) Regulations 2022 and come into force on 1st October 2022.

(2) These Regulations extend to England and Wales and Scotland.

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- (a) 1992 c. 4. Section 130A was inserted by section 30(2) of the Welfare Reform Act 2007 (c. 5) and amended by section 69(2) and (3) of the Welfare Reform Act 2012 (c. 5). Section 137(1) is cited for the meaning it gives to “prescribed”. Section 175(1) is cited for indicating that regulations and orders under the Act shall be made by the Secretary of State.
- (b) 2012 c. 5. Section 40 is cited for the meaning it gives to “prescribed”. Section 42(1) is cited for indicating that regulations made under this part of the Act are to be made by the Secretary of State unless otherwise provided. Section 96(10) is cited for the meaning it gives to “prescribed” and “regulations”. Section 97(1) was amended by section 9(3) of the Welfare Reform Act 2016 (c. 7).
- (c) 1992 c. 5.
- (d) Subsection (1) has been amended but the amendments are not relevant.
- (e) 2016 c. 11.

Amendments to the Housing Benefit Regulations 2006

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

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “close relative”(b) insert—

““coercive behaviour” means an act of assault, humiliation or intimidation or other abuse that is used to harm, punish or frighten the victim;

“competent authority” means a person who is a competent authority within the meaning of the Trafficking Convention;

“compulsory labour”, “forced labour”, “servitude” and “slavery” have the same meaning as in Article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the United Kingdom;”;

(b) after the definition of “contributory employment and support allowance”(c) insert—

““controlling behaviour” means an act designed to make a person subordinate or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance or escape or regulating their everyday behaviour;”;

(c) after the definition of “disability living allowance” insert—

““domestic violence” means any incident, or pattern of incidents, of controlling behaviour, coercive behaviour, violence or abuse, including but not limited to—

(a) psychological abuse;

(b) physical abuse;

(c) sexual abuse;

(d) emotional abuse;

(e) financial abuse,

regardless of the gender or sexuality of the victim;”;

(d) after “a guaranteed income payment” insert—

““health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(d);”;

(e) after the definition of “pension fund holder”(e) insert—

““person acting in an official capacity”, where it appears in the definition of “young individual”, means a health care professional, a police officer, a registered social worker, the victim’s employer or any public, voluntary or charitable body which has had direct contact with the victim in connection with domestic violence;”;

(f) after the definition of “polygamous marriage” insert—

““positive conclusive grounds determination relating to modern slavery” means a determination made by a competent authority that an individual is a victim of trafficking in human beings, slavery, servitude or forced or compulsory labour;”;

(g) after the definition of “registered housing association”(f) insert—

(a) S.I. 2006/213.

(b) The definition was amended by S.I. 2008/2767.

(c) The definition was substituted by S.I. 2013/630.

(d) 2002 c. 17. Section 25(3) was amended by S.I. 2010/231, paragraph 17(1) to (3) of Schedule 10 to the Health and Social Care Act 2008 (c. 14), paragraph 56(b) of Part 2 of Schedule 15 to the Health and Social Care Act 2012 (c. 7) and paragraphs 1, 2(1) and (2) of Schedule 4 to the Children and Social Work Act 2017 (c. 16).

(e) The definition was amended by S.I. 2007/1749.

(f) The definition was substituted by S.I. 2010/671 and amended by S.I. 2012/700 and 3040.

““registered social worker” means a person registered as a social worker in a register maintained by—

- (a) Social Work England;
- (b) Social Care Wales;
- (c) The Scottish Social Services Council; or
- (d) the Northern Ireland Social Care Council;”;

(h) in the definition of “relative” at the end insert—

“except where it appears within the definition of “young individual” and within Regulation A13 where it has the meaning given by section 63(1) of the Family Law Act 1996(a);”;

(i) after the definition of “tax year” insert—

““the Trafficking Convention” means the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16th May 2005);”;

“trafficking in human beings” has the same meaning as in the Trafficking Convention;”
;

(j) in the definition of “young individual”(b), after paragraph (j) insert—

“(k) who—

- (i) after attaining the age of 16 had domestic violence inflicted upon or threatened against them (“the victim”) by their partner or former partner, or by a relative; and
- (ii) provides evidence to the relevant authority from a person acting in an official capacity which demonstrates that—
 - (aa) the victim’s circumstances are consistent with their having had domestic violence inflicted upon or threatened against them; and
 - (bb) the victim has contacted a person acting in an official capacity in relation to such an incident;

(l) who has been the subject of a positive conclusive grounds determination relating to modern slavery;”.

(3) Omit regulation 12M (transitional protection – reduction in LHA)(c).

(4) In regulation A13 (when a maximum rent (social sector) is to be determined)(d), paragraph (5), omit the definitions of “domestic violence”, “health care professional”, “registered social worker” and “relative”.

(5) In regulation 75H (specified accommodation)(e), paragraph (6), omit the definitions of “coercive behaviour”, “controlling behaviour” and “domestic violence”.

(a) 1996 c. 27. Section 63(1) was amended by section 58 of, and paragraph 41(3) of Schedule 10 to, the Domestic Violence, Crime and Victims Act 2004 (c. 28) and section 82 of, and paragraph 14(4) of Schedule 9 to, the Civil Partnership Act 2004 (c. 33). Other amendments have been made but are not relevant to this instrument.

(b) The definition was amended by S.I. 2007/2868, 2010/2835, 2011/1736 and 1740, 2013/1465 and 2828, 2014/213, 2017/901 and 2021/546.

(c) Regulation 12M was inserted by S.I. 2010/2835 and amended by S.I. 2011/1736.

(d) Regulation A13 was inserted by S.I. 2012/3040 and amended by S.I. 2021/991. Other amendments have been made but are not relevant to this instrument.

(e) Regulation 75H was inserted by S.I. 2014/771.

Amendment of the Universal Credit Regulations 2013

3.—(1) Schedule 4 (housing costs element for renters) to the Universal Credit Regulations 2013(a) is amended as follows.

(2) In paragraph 2 (interpretation)—

(a) before “exempt accommodation”(b) insert—

““domestic violence” has the meaning given by regulation 98(4);”;

(b) after “registered social landlord”, insert—

““relative” has the meaning given by section 63(1) of the Family Law Act 1996;”.

(3) In paragraph 29 (renters excepted from shared accommodation)—

(a) in sub-paragraph (1)(c) for “(9A)” substitute “(9C)”;

(b) after sub-paragraph (9A)(d) insert—

“(9B) E is under 35 years old and—

(a) after attaining the age of 16 had domestic violence inflicted upon or threatened against them (“the victim”) by their partner or former partner, or by a relative; and

(b) provides evidence from a person acting in an official capacity which demonstrates that—

(i) the victim’s circumstances are consistent with their having had domestic violence inflicted upon or threatened against them; and

(ii) the victim has contacted a person acting in an official capacity in relation to such an incident.

(9C) E is under 35 years old and has been the subject of a positive conclusive grounds determination relating to modern slavery.”;

(c) in sub-paragraph (10)—

(i) after the definition of ““care home”, “registered charity” and “voluntary organisation”” insert—

““competent authority” means a person who is a competent authority within the meaning of the Trafficking Convention;

““compulsory labour”, “forced labour”, “servitude” and “slavery” have the same meaning as in Article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the United Kingdom;”;

(ii) after the definition of “hostel for homeless people” insert—

““person acting in an official capacity” means a health care professional (within the meaning given by regulation 98(4)), a police officer, a registered social worker (within the meaning given by regulation 98(4)), the victim’s employer, or any public, voluntary, or charitable body which has had direct contact with the victim in connection with domestic violence;

““positive conclusive grounds determination relating to modern slavery” means a determination made by a competent authority that an individual is a victim of trafficking in human beings, slavery, servitude or forced or compulsory labour;

“the Trafficking Convention” means the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16th May 2005);

(a) S.I. 2013/376.

(b) The definition was substituted by S.I. 2014/771.

(c) Sub-paragraph (1) was substituted by S.I. 2018/1129.

(d) Sub-paragraph (9A) was inserted by S.I. 2018/1129.

“trafficking in human beings” has the same meaning as in the Trafficking Convention.”

- (4) In paragraph 36 (under-occupancy deduction)(a), sub-paragraph (6)(b)—
- (a) for ““domestic violence” and “person acting in an official capacity” have the meaning given to them in regulation 98(4) of these Regulations;” substitute ““person acting in an official capacity” has the meaning given to it in regulation 98(4) of these Regulations;”;
 - (b) omit the definition of “relative”.

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

David Rutley
Parliamentary Under Secretary of State
Department for Work and Pensions

5th September 2022

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”) and the Universal Credit Regulations 2013 (S.I. 2013/376) (“the Universal Credit Regulations”). They extend the scope of the exemptions from the shared accommodation rate for the Local Housing Allowance (“LHA”) (and the Single Room Rent (“SRR”) in the case of Housing Benefit) to include victims of domestic violence who have attained the age of 16 and victims of modern slavery (“the relevant victims”).

Regulation 2 amends the definition of “young individual” in regulation 2 of the Housing Benefit Regulations to exclude the relevant victims. As the definition of “young individual” will now exclude the relevant victims, those victims will fall outside the scope of regulation 13(5), which provides that in the case of a “young individual” the maximum rent will be the SRR unless one of the specified exceptions applies.

In the same way, regulation 13D (determination of a maximum rent (LHA)), will also not apply to the relevant victims, as they will fall outside the definition of “young individual” and therefore outside the scope of regulation 13D(2)(a)(i), which provides that where the claimant is a “young individual” the one bedroom shared accommodation rate applies, subject to specified exceptions.

The meaning of “relative”, as used within the definition of “young individual”, is also amended so that it has the meaning given by section 63(1) of the Family Law Act 1996(b).

Regulation 3 amends paragraph 29 of Schedule 4 to the Universal Credit Regulations (renters excepted from shared accommodation) to include the relevant victims within the list of renters excepted from the shared accommodation rate. Regulation 3 also amends paragraph 2 of Schedule 4 so that “relative”, as it appears within paragraphs 29 and 36, has the meaning given by section 63(1) of the Family Law Act 1996.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary, or public sector is foreseen.

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(a) Sub-paragraph (6) was inserted by S.I. 2021/991.
(b) 1996 c. 27.

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