

Housing Benefit Circular

Department for Work and Pensions
Caxton House, Tothill Street, London SW1H 9NA

HB A7/2016

ADJUDICATION AND OPERATIONS CIRCULAR

WHO SHOULD READ	All Housing Benefit staff
ACTION	For information
SUBJECT	The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016

Guidance Manual

The information in this circular does affect the content of the HB Guidance Manual. Please annotate this circular number against

Fear of violence: A3 Paragraph 3.413, Paragraph 3.631

Temporary Absence from Home: A3 Paragraphs 3.450 – 3.590

Queries

extra copies of this circular/copies of previous circulars can be found at <https://www.gov.uk/government/collections/housing-benefit-for-local-authorities-circulars>

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(Amendment) Regulations 2016**

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The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016

Introduction

1. This circular provides information about the Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016 (S.I. 2016/624).
2. These regulations make amendments to the Housing Benefit Regulations 2006 and the Housing Benefit (Persons who have reached the qualifying age for State Pension Credit) Regulations 2006 to introduce new provisions which relate specifically to absences outside of Great Britain (GB).
3. The changes will come in to force on 28 July 2016.

Background

4. The Chancellor of the Exchequer announced in the 2015 Autumn Statement that changes would be made to the temporary absence rules in Housing Benefit (HB) and Pension Credit reducing the allowable period of temporary absence outside GB from 13 weeks to 4 weeks.

Outline of the changes

5. The Regulations have been amended to introduce a distinction between temporary absences from the main home within GB and outside GB for both working age and state pension credit age claims.
6. GB includes England, Scotland and Wales. Northern Ireland, the Channel Islands and the Isle of Man are not part of GB for HB purposes and therefore, any absences to those areas should be considered under the new absence from GB provisions.
7. There are no changes to the provisions relating to:
 - intention to return home
 - that the main dwelling has not been and will not be sub-let
 - that the period of absence is unlikely to extend beyond the limits.

Maximum time limits will apply to absences outside of GB as well as absences within GB.

8. Existing provisions for temporary absence within GB are unchanged.

Transitional arrangements

9. The amended regulations only apply to new instances of temporary absence starting on or after the regulations come into force. People who are already temporarily absent from GB on the day the regulations come into force are to be treated under the old provisions i.e. as if the new regulations hadn't been made. The transitional arrangements will not apply to members of Her Majesty's forces, continental shelf workers or mariners who are outside GB when the regulations come into force.

Example – Claimant absent from GB on 28 July 2016

A claimant and their partner leave GB on 10 June 2016 for a 12 week stay in Spain with friends. They are due to return to GB on 1 September 2016.

The amending regulations come into force on 28 July 2016 whilst they are in Spain.

As the claimant and their partner were already outside GB on the day the regulations came into force they continue to be entitled to HB for the longer period under the previous regulations.

Temporary absence outside GB: general rule

10. From 28 July 2016 a new general temporary absence rule applies to claimants and their family members for periods of absence outside GB. The new rule allows them to be absent for up to 4 weeks as long as they continue to meet the rules for absences from their main dwelling.

Example 1 – absence outside GB expected to be 4 weeks or less

A claimant reports a change in circumstances that he will be absent from his home and out of Great Britain for a period of 2 weeks from 25 October 2016 as he is going on holiday.

HB can continue to be paid for the entire period of the absence because it does not exceed 4 weeks.

Example 2 – absence outside GB expected to exceed 4 weeks

A claimant reports a change of circumstances that he will be absent from his home and outside GB for 6 weeks from 2 September 2016 as he is visiting family.

As the absence will exceed 4 weeks his HB stops from the date he departs GB.

Temporary absence outside GB: exceptions to the general rule

11. There continue to be exceptions to the general temporary absence rule for certain groups and there are also new exceptions which are specific to absences outside GB. For these groups absences from GB can be extended up to 8 weeks or 26 weeks in some cases.
12. Annexe A has a detailed list of the groups which are currently allowed to be absent for more than 13 weeks and also shows the new period of absence allowed where this is outside GB.

Absences in connection with the death of a close relative

13. Persons absent from GB in connection with the death of

- their partner
- a child they or their partner are responsible for
- the persons close relative
- a close relative of the persons partner
- close relative of a child or young person for whom the person or person's partner is responsible

may have the allowable period of absence extended to up to 8 weeks if the Decision Maker considers that it is unreasonable for the claimant to return home within the first 4 weeks.

Example

A claimant reports a change of circumstances that he will be absent from his home and outside GB for a period of 6 weeks from 4 November 2016 due to the death of a close relative in Australia.

HB can continue in payment for 4 weeks from the date the claimant left his home and went abroad. The Decision Maker should consider whether it is unreasonable to expect the claimant to return within 4 weeks and, if so, whether the allowable period of absence should be extended to 6 weeks.

Members of Her Majesty's forces, mariners and continental shelf workers

14. The regulations add new exceptions to the general rule in addition to existing general exceptions, for absences outside GB, for members of Her Majesty's forces posted overseas, mariners and continental shelf workers. They can all continue to receive HB for absences outside GB for up to 26 weeks.

Temporary absence outside GB follows a period of temporary absence in GB

15. For the purpose of calculating the 13 weeks under the general rule for absences within GB, a period of absence within GB may include a period of absence outside of GB provided that, whilst outside GB the claimant remained entitled to HB under the absence from GB rules.

Example 1: Absence from GB follows a period of absence in GB

A claimant who is a reserve member of Her Majesty's forces is posted overseas. Before she leaves GB she spends 4 weeks undertaking refresher training at Catterick army barracks from 3 October 2016. She leaves GB on 31 October 2016 and expects to be away for 8 weeks.

She reports the change in circumstances that she will be absent from home and in GB for 4 weeks and outside GB for a period of 8 weeks from 31 October 2016. She returns to her normal dwelling in GB on 26 December.

As she was absent from home in GB for 4 weeks and then absent outside GB for 8 weeks, HB can continue to be paid when the claimant returns to GB as her total absence from home was less than 13 weeks.

16. Where the temporary absence from GB ends because of a return to GB and they have been absent from their home in GB for more than 12 weeks but less than 13 weeks, the claimant must return to the dwelling they occupy as their home in order to continue to meet the condition that they occupy the dwelling as their home. If the temporary absence is 13 weeks or more, HB must cease.
17. If a claimant whilst abroad ceases to be entitled to HB then, when the person returns to GB, they will not be entitled to HB as they will not be regarded as occupying their dwelling as their home for the period of temporary absence, even if the total absence from the home has not exceeded 13 weeks.

Example 2: Absence from GB follows period of absence within GB

A claimant reports a change of circumstances that he is going to be absent from home for 8 weeks staying with relatives within GB for a holiday and will be subsequently going with his family to stay with them outside GB for 3 weeks.

Whilst he is outside GB he reports another change of circumstance that he has decided to stay in France for 5 weeks not 3 weeks as previously notified.

As he will now be absent from GB for more than 4 weeks his HB stops immediately as the rule about allowable absence outside GB will cease to apply and they will cease to be treated as occupying their dwelling as their home.

Annex A

Temporary absence table

We have produced this table to illustrate and help identify the differences that now exist between temporary absences within GB and outside of GB.

Circumstances of absence	Within Great Britain	Outside Great Britain
A person detained on remand pending trial or sentence upon conviction or as a condition of bail to reside in a dwelling other than their home	52 weeks	4 weeks
A person in a hospital or similar institution as a patient	52 weeks	26 weeks
A person, their partner or dependent child undergoing medical treatment, medically approved convalescence in accommodation other than residential accommodation	52 weeks	26 weeks
A training course	52 weeks	4 weeks
A person who is absent and undertaking medically approved care of a person residing in GB or elsewhere	52 weeks	4 weeks
A person who is caring for child whose parent or guardian is temporarily absent from the home of that parent or guardian and receiving medically approved care or medical treatment	52 weeks	4 weeks
A person who is receiving medically approved care provided in accommodation other than residential accommodation	52 weeks	26 weeks
An eligible student	52 weeks	4 weeks
A person who is receiving care in residential accommodation and is not staying on a trial basis to ascertain if the accommodation suits his needs	52 weeks	4 weeks
A person who has left their home through fear of violence	52 weeks	26 weeks
A person who enters residential accommodation on a trial basis to ascertain if it meets their needs with the intention of returning home	52 weeks	4 weeks

Circumstances of absence	Within Great Britain	Outside of Great Britain
A person who is absent from GB in connection with the death of their partner or a child for whom he or his partner is responsible, the persons close relative, a close relative of the persons partner or a close relative of a child or young person for whom the person or persons partner is responsible	13 weeks	4 weeks plus additional 4 weeks if the Decision Maker considers it unreasonable for the claimant to return home within the first 4 weeks
A member of Her Majesty's forces posted overseas	13 weeks	26 weeks
A mariner	13 weeks	26 weeks
Continental shelf worker	13 weeks	26 weeks
Any other temporary absence e.g. holiday	13 weeks	4 weeks