

2012 No. 1483

SOCIAL SECURITY

The Social Security (Information-sharing in relation to Welfare Services etc.) Regulations 2012

<i>Made</i> - - - -	<i>8th June 2012</i>
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CONTENTS

**PART 1
GENERAL**

1. Citation and commencement
2. Interpretation

PART 2

**INFORMATION-SHARING IN RELATION TO PROVISION OF OVERNIGHT CARE
ETC. UNDER SECTION 130 OF THE 2012 ACT**

3. Prescribed information
4. Prescribed benefits

PART 3

**INFORMATION-SHARING IN RELATION TO WELFARE SERVICES ETC. UNDER
SECTIONS 131 TO 133 OF THE 2012 ACT**

5. Supply of relevant information by the Secretary of State
6. Holding purposes
7. Using purposes connected with welfare services and housing benefit
8. Using purposes connected with the troubled families programme
9. Using purposes connected with under-occupation and benefit cap
10. Qualifying persons
11. Excepted matters

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 130(2) and (7), 131(1), (3) and (11), 132(8) and 133(1) and (2) of the Welfare Reform Act 2012(a).

In respect of provisions in these Regulations relating to housing benefit, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned (b).

PART 1 GENERAL

Citation and commencement

1. These Regulations may be cited as the Social Security (Information-sharing in relation to Welfare Services etc.) Regulations 2012 and come into force on 2nd July 2012.

Interpretation

2. In these Regulations—

“the 2012 Act” means the Welfare Reform Act 2012;

“the benefit cap” means the benefit cap (if any) which is provided for in regulations under section 96 of the 2012 Act;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992(c);

“disabled person’s badge” means a badge issued under section 21 of the Chronically Sick and Disabled Persons Act 1970 (badges for display on motor vehicles used by disabled persons)(d);

“housing benefit” means housing benefit under section 130 of the Contributions and Benefits Act;

“housing benefit claimant” means a person who has made a claim for or is in receipt of housing benefit;

“the Housing Benefit Regulations” means the Housing Benefit Regulations 2006(e);

“the Housing Benefit (State Pension Credit) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(f);

“housing support services” means—

in England, non-statutory assistance;

in Wales, services provided under the supporting people programme in Wales;

(a) 2012 c.5. Section 133(1) is an interpretation provision and is cited for the meaning of the word “prescribed”.

(b) See section 176(1) of the Social Security Administration Act 1992 (c.5). Section 176(1)(a) is amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c.14).

(c) 1992 c.4.

(d) 1970 c.44; section 21 was amended by Schedule 30 to the Local Government Act 1972 (c.70), section 68 of the Transport Act 1982 (c.49), paragraph 35 of Schedule 13 and paragraph 1 of Schedule 8 to the Road Traffic Regulation Act 1984 (c.27), paragraph 8 of Schedule 10 and Schedule 18 to the Local Government (Wales) Act 1994 (c.19), paragraph 86 of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39), section 73 of the Transport (Scotland) Act 2001 (asp.2), section 94 of the Traffic Management Act 2004 (c.18), paragraph 41 of part 2 of Schedule 1 to the Disability Discrimination Act 2005 (c.13), section 49 of the Transport (Scotland) Act 2005 (asp.12), and paragraph 2 of Schedule 8 to the Tribunals, Courts and Enforcement Act 2007 (c.15).

(e) S.I. 2006/213.

(f) S.I. 2006/214.

in Scotland, services of a type falling within the Schedule to the Housing (Scotland) Act 2001 (Housing Support Services) Regulations 2002(a);

“landlord” includes a person to whom rent allowance is payable under the Housing Benefit Regulations or regulation 76 of the Housing Benefit (State Pension Credit) Regulations (circumstances in which payment is to be made to a landlord), as the case may require;

“non-statutory assistance” means assistance provided by a local authority in England, in the form of the funding, planning, monitoring or delivery of housing-related support services for the purpose of enabling people aged 16 or over to overcome barriers to participation in society by assisting such people to live more independently within their home or community, but does not include the grant of a tenancy or the provision of accommodation;

“regulations relating to under-occupation” means regulations (if any) that have been made under section 130A of the Contributions and Benefits Act(b) which restrict, by reference to the number of bedrooms in relation to the number of people occupying the dwelling as their home, the amount of housing benefit available to housing benefit claimants whose landlord is a social landlord or local authority;

“rent” is to be construed in accordance with regulation 2(1) of the Housing Benefit Regulations or regulation 2(1) of the Housing Benefit (State Pension Credit) Regulations, as the case may require;

“residential care” means—

- (a) in England and Wales, the provision of accommodation together with nursing and personal care in a care home as defined in section 3 of the Care Standards Act 2000(c);
- (b) in Scotland, the provision of accommodation together with nursing, personal care or personal support by a care home service as defined in paragraph 2 of Schedule 12 to the Public Services Reform (Scotland) Act 2010(d);

“social landlord” means a landlord falling within regulation 13C(5)(a)(i), (ii) or (iii) of the Housing Benefit Regulations(e) or regulation 13C(5)(a)(i), (ii) or (iii) of the Housing Benefit (State Pension Credit) Regulations(f), as the case may require;

“the supporting people programme in Wales” means the programme of assistance provided by local authorities in Wales, in the form of the funding, planning, monitoring or delivery of housing-related support services for the purpose of enabling people aged 16 or over to overcome barriers to participation in society by assisting such people to live more independently within their home or community, other than through the grant of a tenancy or the provision of accommodation;

“the troubled families programme” means the programme of assistance provided by local authorities in England, for the purpose of engaging with households who face multiple disadvantages (such as crime, worklessness, truancy and anti-social behaviour), in the form of the funding, planning, monitoring or delivery of support services which assist members of such households to obtain employment, education or training, improve school attendance, or address crime and anti-social behaviour.

(a) S.S.I. 2002/444.

(b) Section 130A is inserted by section 30(2) of the Welfare Reform Act 2007 and amended by section 69 of the 2012 Act.

(c) 2000 c.14. Section 3 is amended by paragraph 4 of Schedule 5 to the Health and Social Care Act 2008 (c.14).

(d) 2010 asp.8.

(e) Regulation 13C is inserted by S.I. 2007/2868 and amended by S.I. 2010/671 and 2012/200.

(f) Regulation 13C is inserted by S.I. 2007/2869 and amended by S.I. 2010/671 and 2012/200.

PART 2

INFORMATION-SHARING IN RELATION TO PROVISION OF OVERNIGHT CARE ETC. UNDER SECTION 130 OF THE 2012 ACT

Prescribed information

3.—(1) The information prescribed under section 130(2)(c) of the 2012 Act (information held by a local authority) is—

- (a) whether a resident is meeting in full the cost of the provision to them of residential care and if so the date this commenced and the period over which the cost is intended to be met;
- (b) whether the local authority is funding or has funded in full or in part the cost of the provision to a resident of residential care and if so—
 - (i) the date from which the funding commenced and the period covered or intended to be covered by it;
 - (ii) the date when the funding stopped or is intended to stop;
 - (iii) the enactment under which the funding is being or was provided;
 - (iv) whether there exists any agreement enabling the local authority to recover the cost of the funding on the sale of the resident's home and if so, whether that recovery has commenced or when it is intended to commence; and
 - (v) whether the local authority has entered into a deferred payment agreement with the resident and if so the date this commenced and the period the agreement is intended to cover.

(2) In this regulation—

- (a) “deferred payment agreement” has the meaning given in section 55(3) of the Health and Social Care Act 2001(a) or (in Scotland) section 6(2) of the Community Care and Health (Scotland) Act 2002(b);
- (b) “resident” means a recipient of residential care.

Prescribed benefits

4. The benefits prescribed under section 130(7)(d) of the 2012 Act are—

- (a) attendance allowance under section 64 of the Contributions and Benefits Act(c);
- (b) disability living allowance under section 71 of the Contributions and Benefits Act(d)
- (c) income-based jobseeker's allowance within the meaning given in section 1(4) of the Jobseekers Act 1995(e);
- (d) income-related employment and support allowance payable in accordance with section 1(2)(b) of the Welfare Reform Act 2007(f);
- (e) income support under section 124 of the Contributions and Benefits Act(g); and

(a) 2001 c. 15.

(b) 2002 asp. 5.

(c) Section 64 is amended by section 66(1) of the Welfare Reform & Pensions Act 1999 (c.30).

(d) Section 71 is amended by section 67(1) of the Welfare Reform and Pensions Act 1999.

(e) 1995 c.18. The definition is amended by Schedule 7 to the Welfare Reform and Pensions Act 1999.

(f) 2007 c.5.

(g) Section 124 is amended by section 41(4) and (5) of, and paragraph 30 of Schedule 2 and Schedule 3, to the Jobseekers Act 1995 (c.18), section 70 of, and paragraph 28 of Part IV of Schedule 8 to, the Welfare Reform and Pensions Act 1999, sections 14 and 21 of, and paragraphs 1, 2(1), (2) and (3) of Part 1 of Schedule 2 and Schedule 3 to, the State Pension Credit Act 2002 (c.16), section 254(1) of, and paragraph 42 of Part 3 of Schedule 24 to, the Civil Partnership Act 2004 (c.33), sections 28(1) and 67 of, and paragraph 9(1), (9) and (10) of Schedule 3 and Schedule 8 to, the Welfare Reform Act 2007 (c.5).

- (f) state pension credit under section 1 of the State Pension Credit Act 2002^(a).

PART 3

INFORMATION-SHARING IN RELATION TO WELFARE SERVICES ETC. UNDER SECTIONS 131 TO 133 OF THE 2012 ACT

Supply of relevant information by the Secretary of State

5.—(1) The purposes prescribed under section 131(1) of the 2012 Act (purposes for which the Secretary of State or a person providing services to the Secretary of State may supply relevant information to a qualifying person) are—

- (a) determining a person's eligibility or continued eligibility for a disabled person's badge;
- (b) determining whether to make to any person any grant or payment listed in paragraph (2) and if so the amount of any such grant or payment;
- (c) determining whether a person applying for or receiving a welfare service listed in paragraph (3) is liable to contribute towards the cost of that service and if so the amount of that contribution; and
- (d) where the qualifying person is a local authority in England, identifying households eligible for support under the troubled families programme and providing appropriate types of advice, support and assistance to members of such households under that programme.

(2) The grants and payments referred to in paragraph (1)(b) are—

- (a) a disability adaptation grant;
- (b) a disabled facilities grant;
- (c) a discretionary housing payment.

(3) The welfare services referred to in paragraph (1)(c) are—

- (a) housing support services;
- (b) the provision of domiciliary care;
- (c) the provision of residential care.

(4) In this regulation—

- (a) “disability adaptation grant” means a grant paid under Part 2 of the Housing (Scotland) Act 2006^(b) to assist with the adaptation of a house for a disabled person to make it suitable for the accommodation, welfare or employment of that person;
- (b) “disabled facilities grant” means a grant paid under Chapter 1 of Part 1 of the Housing Grants, Construction and Regeneration Act 1996^(c);
- (c) “discretionary housing payment” means a payment made pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001^(d);
- (d) “domiciliary care” means care or assistance of any description provided to an adult person by reason of their age, health or any disability, whether provided continuously or not and whether or not provided at a place where they live, but excludes care or assistance provided to a person in residential care.

(a) 2002 c.16.

(b) 2006 asp. 1.

(c) 1996 c.53 as amended by the Housing Act 2004 (c.34).

(d) S.I. 2001/1167.

Holding purposes

6.—(1) The purposes prescribed under section 131(3) of the 2012 Act as purposes for which relevant information must be held by a qualifying person in order for them to use or supply it as set out in that subsection, are any of the following—

- (a) determining a person’s eligibility or continued eligibility for a disabled person’s badge or for housing support services;
- (b) determining whether to make to any person any grant or payment listed in regulation 5(2) and if so the amount of any such grant or payment;
- (c) determining whether a person applying for or receiving a welfare service listed in regulation 5(3) is liable to contribute towards the cost of that service and if so the amount of that contribution;
- (d) where the qualifying person is a local authority in England, identifying households eligible for support under the troubled families programme and providing appropriate types of advice, support and assistance to members of such households under that programme;
- (e) discharging any functions under Part 7 of the Housing Act 1996^(a) or (in Scotland) Part 2 of the Housing (Scotland) Act 1987^(b);
- (f) determining whether a person is in receipt of housing benefit;
- (g) determining the size of a dwelling occupied by a housing benefit claimant and the number of persons occupying that dwelling as their home;
- (h) identifying housing benefit claimants who are or may be affected by regulations relating to under-occupation, and providing appropriate types of advice, support and assistance to such persons;
- (i) identifying housing benefit claimants who are or may be affected by the benefit cap, and providing appropriate types of advice, support and assistance to such persons;
- (j) determining the amount of housing benefit payable to a housing benefit claimant by reference to the local housing allowance;
- (k) determining whether a person is in receipt of council tax benefit under section 131 of the Contributions and Benefits Act^(c);
- (l) determining whether a housing benefit claimant is likely to have difficulty in managing their financial affairs;
- (m) determining the probability that a housing benefit claimant will pay their rent;
- (n) determining whether the landlord of a housing benefit claimant—
 - (i) was to provide qualifying welfare services to that housing benefit claimant but has not done so, or
 - (ii) is to provide qualifying welfare services to that housing benefit claimant but is unlikely to do so;
- (o) determining whether—
 - (i) the landlord of a housing benefit claimant is a social landlord,
 - (ii) a housing benefit claimant occupies as their home a dwelling which is exempt accommodation,
 - (iii) the tenancy of a housing benefit claimant is an excluded tenancy,
 - (iv) a housing benefit claimant occupies as their home a houseboat, caravan or mobile home, or
 - (v) a housing benefit claimant resides in a hostel.

^(a) 1996 c.52.

^(b) 1987 c.26.

^(c) Section 131 is substituted by paragraph 4 of Schedule 9 to the Local Government Finance Act 1992 (c.14).

(2) In this regulation—

- (a) “excluded tenancy” means a tenancy of a type falling within any of paragraphs 4 to 11 of Schedule 2 to the Housing Benefit Regulations or paragraphs 4 to 11 of Schedule 2 to the Housing Benefit (State Pension Credit) Regulations, as the case may require;
- (b) “exempt accommodation” has the meaning given in paragraph 4(10) of Schedule 3 to the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006(a) (transitional and savings provision);
- (c) “hostel” has the meaning given in regulation 2(1) of the Housing Benefit Regulations or regulation 2(1) of the Housing Benefit (State Pension Credit) Regulations, as the case may require;
- (d) “local housing allowance” means an allowance determined in accordance with paragraph 2 of Schedule 3B to the Rent Officers Order;
- (e) “Rent Officers Order” means the Rent Officers (Housing Benefit Functions) Order 1997(b) or (in Scotland) the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997(c);

Using purposes connected with welfare services and housing benefit

7.—(1) This regulation applies to relevant information held by a qualifying person for any purpose listed in regulation 6 except the purpose listed in regulation 6(d).

(2) The purposes set out in paragraph (3) are prescribed—

- (a) under section 131(3)(a) of the 2012 Act as purposes for which the information may be used by that qualifying person; and
- (b) subject to regulation 11, under section 131(3)(b) of the 2012 Act as purposes for use in relation to which the information may be supplied by that qualifying person to another qualifying person.

(3) The purposes are any purposes connected with—

- (a) the purposes referred to in regulation 6(a), (b), (c) or (e);
- (b) applying any of the following regulations—
 - (i) regulation 13C(5) of the Housing Benefit Regulations (cases where a maximum rent (LHA) is not to be determined);
 - (ii) regulation 96(3) or (3A) of the Housing Benefit Regulations(d) (circumstances in which payment may be made to a landlord);
 - (iii) regulation 13C(5) of the Housing Benefit (State Pension Credit) Regulations (cases where a maximum rent (LHA) is not to be determined);
 - (iv) regulation 77(3) or (3A) of the Housing Benefit (State Pension Credit) Regulations(e) (circumstances in which payment may be made to a landlord);
- (c) determining whether the qualifying person who uses the information or to whom it is supplied holds other relevant information about a housing benefit claimant for any purpose prescribed in regulation 6.

(a) S.I. 2006/217. Paragraph 4 is substituted by S.I. 2007/2870.

(b) S.I. 1997/1984. Schedule 3B is inserted by article 4 of the Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871) and amended by S.I. 2008/3156, 2009/2459 and 2010/2836.

(c) S.I. 1997/1995. Schedule 3B is inserted by article 13 of the Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871) and amended by S.I. 2008/3156, 2009/2459 and 2010/2836.

(d) Relevant amending instruments are S.I. 2007/2868 and 2010/2835.

(e) Relevant amending instruments are S.I. 2007/2868 and 2010/2835.

Using purposes connected with the troubled families programme

8.—(1) This regulation applies to relevant information held by a qualifying person which is a local authority in England for the purpose listed in regulation 6(d) or the purpose listed in regulation 6(i).

(2) The purposes set out in paragraph (3) are prescribed—

- (a) under section 131(3)(a) of the 2012 Act as purposes for which the information may be used by that qualifying person; and
- (b) under section 131(3)(b) of the 2012 Act as purposes for use in relation to which the information may be supplied by that qualifying person to another qualifying person.

(3) The purposes are any purposes connected with the troubled families programme.

(4) This regulation permits relevant information to be supplied to another qualifying person only where that other qualifying person is also a local authority in England.

Using purposes connected with under-occupation and benefit cap

9.—(1) This regulation applies to relevant information held by a qualifying person for any purpose listed in regulation 6(f) to (i).

(2) The purposes set out in paragraph (3) are prescribed—

- (a) under section 131(3)(a) of the 2012 Act as purposes for which the information may be used by that qualifying person; and
- (b) under section 131(3)(b) of the 2012 Act as purposes for use in relation to which the information may be supplied by that qualifying person to another qualifying person.

(3) The purposes are any purposes connected with—

- (a) identifying housing benefit claimants who are or may be affected by regulations relating to under-occupation, and providing appropriate types of advice, support and assistance to such persons;
- (b) identifying housing benefit claimants who are or may be affected by the benefit cap, and providing appropriate types of advice, support and assistance to such persons.

Qualifying persons

10.—(1) For the purpose of regulation 6(f) to (i) and regulation 9, a social landlord is prescribed to be a qualifying person under section 131(11)(g) of the 2012 Act.

(2) The provisions of section 132 of the 2012 Act (offence of unlawful disclosure) apply to social landlords and persons associated with them by reason of the person's office or employment or otherwise.

Excepted matters

11.—(1) Regulation 7(2)(b) does not permit relevant information held by a Welsh body or a Scottish body for a purpose listed in regulation 6(a), (b), (c) or (e) to be supplied by that body to another qualifying person for use in relation to the same or any other such purpose.

(2) This regulation does not apply if the information was supplied by, or is derived from information supplied to another person by, the Secretary of State or a person providing services to the Secretary of State or a person engaged in the administration of housing benefit.

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

Steve Webb
Minister of State,
Department for Work and Pensions

8th June 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under sections 130 to 133 of the Welfare Reform Act 2012 (c.5) (“the 2012 Act”), prescribe the extent of information-sharing which is permitted under those sections.

Part 1 of these Regulations contains general provisions including definitions in regulation 2.

Part 2 of these Regulations contains provisions made under powers contained in section 130 of the 2012 Act (information-sharing in relation to provision of overnight care etc). Section 130 applies where a local authority holds information as to the provision of overnight care services to an individual, or the date when such provision begins or ends. Regulation 3 extends this to other information relating to overnight care services. Section 130 enables the local authority to use such information, or supply it to another local authority or the Secretary of State (or their service providers or persons exercising functions of a local authority), for purposes relating to the payment of a “relevant benefit”. This is defined in section 130(7) to include universal credit, housing benefit or council tax benefit. Regulation 4 extends this to certain other benefits.

Part 3 of these Regulations contains provisions made under powers contained in sections 131 to 132 of the 2012 Act (information-sharing in relation to welfare services etc).

Section 131(1) allows the Secretary of State (or a person providing services to the Secretary of State) to supply relevant information relating to certain social security benefits or welfare services (defined in section 131(12)) to a “qualifying person”. Regulation 5 prescribes the purposes for which such information may be supplied.

Section 131(3) allows a qualifying person who holds information of this kind for a prescribed purpose to use that information, or supply it to another qualifying person for use in relation to, a prescribed purpose. Regulation 6 prescribes the purposes for which relevant information must be held by a qualifying person in order for them to use or supply it for purposes prescribed in regulations 7 to 9. Regulation 7 prescribes purposes for which local authorities may use or supply relevant information. This includes discharging their homelessness functions and the application of provisions in the Housing Benefit Regulations (defined in regulation 2). Regulation 8 permits the use and supply of relevant information for purposes connected to the troubled families programme (defined in regulation 2). Regulation 9 concerns the use and supply of information by local authorities and social landlords (defined in regulation 2) for purposes connected to regulations relating to the under-occupation of a dwelling or the benefit cap. Regulation 7 is subject to exceptions in regulation 11 relating to Welsh and Scottish bodies as defined in section 131 of the 2012 Act.

“Qualifying person” is defined in section 131(11) as a local authority or an authority which administers housing benefit (or their service providers or persons exercising functions on their behalf). Regulation 10 prescribes that, in addition, a social landlord is a qualifying person for the limited purpose of identifying and assisting housing benefit claimants who may be affected by regulations relating to the under-occupation of a dwelling or the benefit cap (defined in regulation 2). It also applies to them the provisions of section 132 of the 2012 Act, which make it an offence to disclose without lawful authority personal information obtained by virtue of section 131(1), (3) or (4).

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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