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 STATUTORY INSTRUMENTS
 

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1983 No. 505

## SOCIAL SECURITY

**The Supplementary Benefit (Housing Benefits) (Requirements and Resources) Consequential Amendment Regulations 1983**
*Laid before Parliament in draft*

<i>Made</i> - - - -	30th March 1983
<i>Coming into Operation</i> <i>regulation 1 and, for certain</i> <i>purposes, regulations 2(1) to (5)</i> <i>and 3(4) (a)</i>	1st April 1983
<i>regulations 2(6) and (7), 3(1) to (3) and</i> <i>(4)(b) and 4 and, for all other</i> <i>purposes, regulations 2(1) to (5) and 3(4)(a)</i>	4th April 1983

Whereas a draft of the following regulations was laid before Parliament and approved by a resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Services, with the consent of the Treasury, in exercise of the powers conferred upon him by paragraphs 1(2) and 2(1) of Schedule 1 to the Supplementary Benefits Act 1976(a) and of all other powers enabling him in that behalf, hereby makes the following regulations.

This instrument satisfies the requirements of paragraph 38 of Schedule 4 to the Social Security and Housing Benefits Act 1982(b), and the Secretary of State has not referred proposals to make the regulations contained in it to the Industrial Injuries Advisory Council or the Social Security Advisory Committee.

*Citation and commencement*

1. These regulations may be cited as the Supplementary Benefit (Housing Benefits) (Requirements and Resources) Consequential Amendment Regulations 1983 and shall come into operation as follows:—

(a) regulation 1 on 1st April 1983;

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(a) 1976 c. 71; Schedule 1 was substituted by section 6(1) of, and paragraph 30 of Schedule 2 to, the Social Security Act 1980 (c. 30).  
(b) 1982 c. 24.

- (b) paragraphs (1) to (5) of regulation 2 and paragraph (4)(a) of regulation 3—
  - (i) in so far as they relate to persons to whom regulation 3(1)(b) of the Housing Benefits Regulations 1982 applies, on 1st April 1983, and
  - (ii) for all other purposes on 4th April 1983;
- (c) paragraphs (6) and (7) of regulation 2, paragraphs (1) to (3) and (4)(b) of regulation 3 and regulation 4 on 4th April 1983.

*Amendment of the Supplementary Benefit (Requirements) Regulations 1980*

2.—(1) The Supplementary Benefit (Requirements) Regulations 1980(a) are amended in accordance with the following paragraphs of this regulation.

- (2) In regulation 2 (interpretation), in paragraph (1)—
  - (a) after the definition of “available capital” there is inserted the following definition:—
    - “‘benefit week’ has the meaning assigned to it by regulation 7 of the Supplementary Benefit (Determination of Questions) Regulations 1980(b) (date of commencement, change and termination of entitlement);”; and
  - (b) in the definition of “housing benefit” for “regulation 2(2)” there is substituted “regulation 2(3)”.
- (3) In regulation 12 (additional requirements for heating)—
  - (a) in paragraph (2)(g)—
    - (i) after “applicable”, where it first occurs, there is inserted “to a householder”, and
    - (ii) for “under a tenancy as a condition of which” there is substituted “under a tenancy or co-ownership as a condition of which (in either case) ”;
  - (b) after paragraph (2) there is inserted the following paragraph:—
    - “(3) Where paragraph 4 of Schedule 3 applies to a person—
      - (a) who is not a partner and has been absent from the home for a continuous period of more than 13 weeks; or
      - (b) to whom regulation 9 or paragraph 1, 2 or 6 of Schedule 2 applies,
 the amount applicable shall be, instead of the excess referred to in column (2) of that paragraph 4, the full amount of the separate charge in respect of the items referred to in column (1) of that paragraph, but no amount shall be applicable under paragraphs 1 to 3 or 5 to 7 of Schedule 3.”.
- (4) In regulation 19 (miscellaneous outgoings), in paragraph (2) (water

(a) S.I. 1980/1299; the relevant amending instruments are S.I. 1980/1774, 1981/1016, 1982/1125, 1126, 1127 and 1634.

(b) S.I. 1980/1643; the relevant amending instruments are S.I. 1981/815 and 1983/337.

charges) for “regulation 5B” there is substituted “regulation 5B(1)(a), (b) and (c)(i)”.

(5) In regulation 19A (housing benefit supplement)—

(a) in paragraph (1) for “Subject to paragraph (3)” there is substituted “Subject to paragraphs (3) and (3A)”;

(b) after paragraph (3) there is inserted the following paragraph:—

“(3A) Where—

(a) for the purposes of ascertaining eligible rent under the Housing Benefits Regulations an amount has been deducted under paragraph 2 of Schedule 3 to those regulations in respect of a charge for an item of fuel; and

(b) if any of paragraphs 3 to 5 of that Schedule had applied, the deduction made in respect of that item would have been of a lesser amount,

for the purposes of paragraph (2)(a) there shall be added to the eligible rent the difference between the amounts mentioned in sub-paragraphs (a) and (b) of this paragraph.”.

(6) In regulation 22 (reduction in amounts applicable for certain occupants of the home)—

(a) in paragraph (4)—

(i) in sub-paragraph (c) for “supplementary benefit” there is substituted “a pension or allowance and in respect of whom the conditions specified in paragraph (6) are not fulfilled”,

(ii) for sub-paragraph (d) there is substituted the following sub-paragraph:—

“(d) in respect of a group of non-dependants to whom sub-paragraph (b) applies, the amounts ascertained under sub-paragraph (c) as though for the reference to the non-dependant there were substituted a reference to the head of the group of non-dependants;”, and

(iii) after sub-paragraph (d) there is added the following sub-paragraph:—

“(e) for a non-dependant who is aged 18 or more and in receipt of a pension or allowance or who is a person in respect of whom the conditions specified in paragraph (6) are fulfilled, or for a group of non-dependants to whom sub-paragraph (a) applies of which the head is aged 18 or more, £2.20.”;

(b) in paragraph (5)—

(i) in sub-paragraph (c) for “or group of non-dependants” there is substituted “who is not a boarder or in respect of a group of non-dependants none of whom is a boarder”, and

(ii) after sub-paragraph (c) there are added the following sub-paragraphs:—

“(d) for a non-dependant or group of non-dependants in respect of whom a deduction is required to be made under regulation 18 of the Housing Benefits Regulations in the

- calculation of a rent rebate or a rent allowance for the claimant or his partner;
- (e) for a non-dependant who is receiving full-time education at an educational establishment and whose needs are provided for, in whole or in part, by the claimant or his partner, or for a group of non-dependants where the head of that group is receiving such education and his needs are so provided for;
- (f) for a non-dependant who is a boarder income from whom is treated as earnings of the claimant under regulation 10(2)(b) of the Resources Regulations, or for a group of non-dependants of which the head is a boarder income from whom is so treated.”;
- (c) after paragraph (5) there are added the following paragraphs:—
- “(6) The conditions referred to in paragraph (4)(c) and (e) are, in respect of a non-dependant,—
- (a) that he has income consisting only of one or more of the following benefits:—
- (i) unemployment benefit under section 14 of the Social Security Act,
- (ii) sickness benefit under section 14 of that Act,
- (iii) maternity allowance under section 22 of that Act,
- (iv) injury benefit under section 56 of that Act(a) (including such benefit payable by virtue of regulations made under section 39(5) of the Social Security and Housing Benefits Act 1982), or
- (v) child benefit under the Child Benefit Act 1975(b);
- (b) that each of the ninety days immediately preceding the relevant day was a day—
- (i) in respect of which he was in receipt of a benefit specified in any of heads (i) to (iv) of sub-paragraph (a) or would have been entitled to any such benefit but for section 15(3) of the Social Security Act (first three days) or section 17(1)(e) of that Act (Sundays and certain other days), or
- (ii) which, for the purposes of Part I of the Social Security and Housing Benefits Act 1982 (statutory sick pay), was a day of incapacity for work in relation to his contract of service (and, if more than one, to each such contract) and fell within a period of entitlement to statutory sick pay; and
- (c) that, subject to paragraphs (7) and (8), the Secretary of State has been furnished with a statement signed by the non-dependant to the effect that he fulfils the first two conditions.
- (7) Where—

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(a) Section 56 is repealed by section 39(1) of the Social Security and Housing Benefits Act 1982 with effect from 6th April 1983 (see Article 2 of, and the Schedule to, the Social Security and Housing Benefits Act 1982 (Commencement No. 1) Order 1982 (S.I. 1982/893), but transitional and saving provision may be made under section 39(5) of that Act.

(b) 1975 c. 61.

- (a) a determination (in this paragraph referred to as “the original determination”) has been made by a benefit officer that a reduction under paragraph (3) of the amount specified in paragraph (4)(c)(i) or (ii) shall be made in respect of a non-dependant in the claimant’s household;
- (b) that claimant, within 28 days of notice of the original determination having been given or sent to him requests that it be reviewed or appeals to an Appeal Tribunal;
- (c) upon the determination made on the review of or on appeal from the original determination each of the conditions specified in paragraph (6) is fulfilled; and
- (d) the first two conditions—
  - (i) were fulfilled at the date of the original determination, or
  - (ii) became fulfilled at some time after that date but before the date of the determination made on the review of or on appeal from the original determination,

the third condition shall, for the purposes of this regulation, be treated as having been fulfilled, in a case to which sub-paragraph (d)(i) applies, from the date of the original determination, or, in a case to which sub-paragraph (d)(ii) applies, from the date on which the first two conditions became fulfilled.

(8) Where—

- (a) the claimant is entitled to a pension or allowance in the benefit week beginning in the calendar week beginning 28th March 1983;
- (b) in that benefit week a reduction was made under paragraph (3) of the amount specified in paragraph (4)(c) as then in force;
- (c) the first two conditions are fulfilled on the first day of the benefit week beginning in the calendar week beginning 4th April 1983 (“the second benefit week”); and
- (d) the third condition is fulfilled within the period of 28 days beginning with the first day of the second benefit week,

the third condition shall be treated as having been fulfilled from the first day of the second benefit week.

(9) Where the claimant is entitled to a pension or allowance in the benefit week beginning in the calendar week beginning 28th March 1983 (“the first benefit week”) and in the benefit week beginning in the calendar week beginning 4th April 1983 (“the second benefit week”) and—

- (a) in the first benefit week income is derived from a person who pays a charge for board and lodging in the home and in the calculation of the claimant’s resources an amount falls to be taken into account under regulation 10(2)(b)(i) of the Resources Regulations;
- (b) in the second benefit week—
  - (i) an amount would fall to be taken into account under that regulation 10(2)(b)(i), if it were still in force, in respect of income derived from that person,

- (ii) a deduction is applicable in respect of that person under this regulation or regulation 18 of the Housing Benefits Regulations or both of them, and
- (iii) the amount of the deduction mentioned in head (ii) exceeds the amount mentioned in head (i) after the application of any disregard of the latter amount under regulation 10(5) of the Resources Regulations,

there shall, for the period of entitlement, be applicable to him an amount equal to the excess mentioned in head (iii), except that if in any benefit week following the second benefit week there is any increase in the claimant's total income by way of supplementary benefit which is attributable to a change of circumstances, the amount so applicable shall be reduced by the amount of that increase.

(10) In this regulation—

- (a) a reference to the head of a group of non-dependants is—
  - (i) where paragraph (4)(a) applies, to the person to whom the pension or allowance is payable, and
  - (ii) where paragraph (4)(b) applies, to the person to whom the pension or allowance would be payable;
- (b) in paragraph (6) “relevant day” means—
  - (i) in relation to a determination of a claim for a pension or allowance, except where paragraph (7) applies, any day within the period of seven days ending with that on which the claim is made,
  - (ii) in relation to a request to review a determination, except where paragraph (7) or (8) applies, any day within the period of seven days ending with that on which the review is requested,
  - (iii) where paragraph (7) applies, any day subsequent to the original determination referred to in that paragraph, and
  - (iv) where paragraph (8) applies, the first day of the second benefit week referred to in that paragraph;
- (c) in paragraphs (6), (7) and (8) a reference to the first two conditions is to those specified in sub-paragraphs (a) and (b) of paragraph (6) and a reference to the third condition is to that specified in sub-paragraph (c) of that paragraph; and
- (d) in paragraph (9) “period of entitlement” means a continuous period, beginning with the beginning of the second benefit week, during which the claimant is entitled to a pension or an allowance and throughout which regulation 10(2)(b)(i) of the Resources Regulations would, if still in force, continue to apply in respect of income derived from the person mentioned in paragraph (9) of this regulation and ending—
  - (i) when the claimant ceases to be entitled to a pension or an allowance,
  - (ii) when the said regulation 10(2)(b)(i) would, if still in force, cease to apply in respect of such income, or

- (iii) on the day immediately preceding the day on which the sums mentioned in paragraph (4) of this regulation are first increased after the coming into operation of this sub-paragraph,

whichever is the earliest.”.

(7) In regulation 23 (non-householder's contribution)—

- (a) in paragraph (1) for sub-paragraphs (a) and (b) there is substituted “the weekly amount of £3.10.”; and

- (b) after paragraph (2) there are added the following paragraphs:—

“(3) Where the claimant is entitled to an allowance in the benefit week beginning in the calendar week beginning 28th March 1983 (“the first benefit week”) and in the benefit week beginning in the calendar week beginning 4th April 1983 (“the second benefit week”) and—

- (a) (i) in the first benefit week he was aged 16 or 17 and the provisions of this regulation then in force applied to him, and

- (ii) in the second benefit week those provisions would, if they were in force, continue to apply to him,

those provisions shall, for the period of entitlement, continue to apply to him;

- (b) in the first benefit week an amount was applicable to him under paragraph (1)(b) of this regulation as then in force, that amount shall, for the period of entitlement, continue to be applicable to him, except that if in any benefit week following the second benefit week there is any increase in the claimant's total income by way of supplementary benefit which is attributable to a change of circumstances, the amount so applicable shall be reduced by the amount of that increase.

(4) In paragraph (3) “period of entitlement” means a continuous period, beginning with the beginning of the second benefit week, during which the claimant is entitled to a pension or allowance, and—

- (a) in relation to sub-paragraph (a), throughout which the provisions mentioned therein would, if still in force, continue to apply to him and ending—

- (i) when the claimant ceases to be entitled to an allowance, or

- (ii) when those provisions would, if still in force, cease to apply to him, or

- (iii) on the day before the provisions of paragraph (2) apply to him,

whichever is the earliest;

- (b) in relation to sub-paragraph (b), throughout which an amount would continue to be applicable to him under the paragraph (1)(b) specified therein and ending—

- (i) when the claimant ceases to be entitled to a pension or an allowance, or

- (ii) an amount would cease to be applicable to him under that paragraph (1)(b) if still in force, whichever is the earlier.”.

*Amendment of the Supplementary Benefit (Resources) Regulations 1981*

3.—(1) The Supplementary Benefit (Resources) Regulations 1981(a) are amended in accordance with the following paragraphs of this regulation.

(2) In regulation 2 (interpretation), in paragraph (1)—

(a) after the definition of “benefit week” there is inserted the following definition:—

“‘boarder’ has the meaning assigned to it in the Requirements Regulations;” and

(b) in the definition of “housing benefit” for “regulation 2(2)” there is substituted “regulation 2(3)”.

(3) In regulation 10 (calculation of earnings)—

(a) to paragraph (1) there is added after sub-paragraph (g) the following sub-paragraph:—

“(h) any sum paid for the purpose of retaining any accommodation in the home as a boarder”;

(b) in paragraph (2) for sub-paragraph (b) there is substituted the following sub-paragraph:—

“(b) where accommodation for which a charge for board and lodging is payable is made available in the home, income consisting of payments of such a charge shall be treated as earnings only where such accommodation is made available in the home for three or more persons (whether or not at any time such accommodation is occupied by three or more persons);” and

(c) in paragraph (3) after sub-paragraph (d) there is inserted the following sub-paragraph:—

“(e) in relation to any income which falls to be treated as earnings under paragraph (2)(b),—

(i) two-thirds of that income, and

(ii) an amount equal to any deductions made, in respect of the persons from whom the income is derived, under regulation 18 of the Housing Benefits Regulations in the calculation of any housing benefit of the claimant or his partner.”.

(4) In regulation 11 (calculation of other income), in paragraph (4) (disregarded income),—

(a) in sub-paragraph (j)—

(i) in head (ii) after “normal requirements” there is inserted “, for

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(a) S.I. 1981/1527; the relevant amending instruments are S.I. 1982/1125, 1126.



- which housing benefit is not payable to the claimant or his partner” and “or” at the end is omitted,
- (ii) head (iii) is omitted, and
  - (iii) for “heads (ii) and (iii) shall apply” there is substituted “head (ii) shall apply”; and
- (b) for sub-paragraph (k) there is substituted the following sub-paragraph:—
- “(k) any contribution in respect of housing made by a person who is a non-dependant within the meaning of the Requirements Regulations or the Housing Benefits Regulations, and any payment of a charge for board and lodging from a boarder in the home, other than any such payment which falls to be treated as earnings under regulation 10(2)(b).”.

*Revocation*

4. Paragraphs (6)(a) and (7)(b) of regulation 3 of the Supplementary Benefit (Housing Benefits) (Requirements and Resources) Consequential Amendments Regulations 1982(a) are hereby revoked.

Signed by authority of the Secretary of State for Social Services.

*Tony Newton,*  
Parliamentary Under-Secretary of State,  
Department of Health and Social Security.

30th March 1983.

We consent,

*P. L. Brooke,*  
*Donald Thompson,*  
Two of the Lords Commissioners  
of Her Majesty's Treasury.

30th March 1983.

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(a) S.I. 1982/1126.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations amend the Supplementary Benefit (Requirements) Regulations 1980 (the "Requirements Regulations") and the Supplementary Benefit (Resources) Regulations 1981 (the "Resources Regulations") which govern the determination of a person's requirements and resources for the purposes of supplementary benefit under the Supplementary Benefits Act 1976. They are made in consequence of the coming into operation of the Housing Benefits Regulations 1982 (S.I. 1982/1124) (as amended) which contain statutory schemes for the granting by local authorities of rate rebates, rent rebates and rent allowances (together called "housing benefits"). Under those regulations, which come fully into operation on 4th April 1983, provision for certain items which is now made by supplementary benefit will be made instead by housing benefits.

The following are the changes of substance made by these regulations (as referred to in brackets below) to the Requirements Regulations (which set out the amounts applicable to a person as requirements for the purposes of supplementary benefit).

- (a) A restriction on the applicability of certain amounts for heating is limited to householders but extended to include those that are co-owners (regulation 2(3)(a)).
- (b) There is made applicable to certain householders paying a charge for heating, hot water, lighting or cooking the full amount of the charge and not merely the excess over a prescribed amount (regulation 2(3)(b)).
- (c) The amount of housing benefit supplement (which is an amount applicable in certain cases where resources are otherwise sufficient to meet requirements but there is entitlement to a housing benefit) is increased for certain persons in the assessment of whose housing benefit an amount has been deducted for charges for heating, hot water, lighting or cooking included in the rent (regulation 2(5)).
- (d) A deduction made, in the calculation of a person's housing requirements, for non-dependent persons living in his home is reduced where the non-dependant has an income consisting only of specified benefits and has been in receipt of specified benefits for at least 90 days (regulation 2(6)(a) and (c)); and it is provided that no deduction at all shall be made in respect of certain students and boarders or where a deduction is to be made in the calculation of rent rebate or allowance (regulation 2(6)(b)).
- (e) Transitional provision is made for a person whose existing entitlement to supplementary benefit on 4th April 1983 would be reduced because of changes in the way in which boarders in his household are treated (those changes having been effected by the Supplementary Benefit (Housing Benefits) (Requirements and Resources) Consequential Amendments Regulations 1982—"the 1982 Regulations") (regulation 2(6)(c)).
- (f) A provision for an increase in the amount applicable to a non-householder in respect of his contribution to housing expenses ("non-householder's contribution") is revoked, subject to transitional provision for those whose existing entitlement to supplementary benefit would be affected (regulation 2(7)).
- (g) Transitional provision is made for persons aged 16 or 17 whose existing entitlement to supplementary benefit on 4th April 1983 is affected by the

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abolition (effected by the 1982 Regulations) of the non-householder's contribution for persons of those ages (regulation 2(7)).

The following are the changes of substance made to the Resources Regulations.

- (a) The basis on which income consisting of payments received from boarders is treated is changed; payments for board and lodging are to be treated as earnings only in certain cases (regulation 3(3)(b)) and in those cases part of that income is to be disregarded (regulation 3(3)(c)); where such payments are not treated as earnings they are to be disregarded in full (regulation 3(4)(b)).
- (b) The circumstances are altered in which income consisting of payments used for an item for which housing benefit is not payable is disregarded (regulation 3(4)(a)).

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