
STATUTORY INSTRUMENTS

1990 No. 1189

**The Housing Renovation etc. Grants
(Reduction of Grant) Regulations 1990**

**PART I
GENERAL**

Citation and commencement

1. These Regulations may be cited as the Housing Renovation etc. Grants (Reduction of Grant) Regulations 1990 and shall come into force on 1st July 1990.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Local Government and Housing Act 1989;

“the 1975 Act” means the Social Security Act 1975(1);

“the 1986 Act” means the Social Security Act 1986(2);

“application” means an application within section 109(1) of the Act;

“assessment period” means such period as is prescribed in regulations 17 to 19 over which income falls to be determined;

“attendance allowance” means—

(a) an attendance allowance under section 35 of the 1975 Act(3);

(b) an increase of disablement pension under section 61 of that Act(4);

(c) a payment under regulations made in exercise of the power conferred by section 159(3) (b) of that Act;

(d) an increase of an allowance which is payable in respect of constant attendance under section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975(5);

(e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(6) or any analogous payment;

(f) any payment based on need for attendance which is paid as part of a war disablement pension;

“the benefit Acts” has the meaning assigned by section 84(1) of the 1986 Act(7);

(1) 1975 c. 14.

(2) 1986 c. 50.

(3) Section 35 was amended by the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 63, the Social Security Act 1979 (c. 18), section 2 and by the Social Security Act 1980 (c. 30), Schedule 1, Part II, paragraph 8.

(4) Sub-sections (3) and (4) of section 61 were added by the Social Security Act 1986 (c. 50), Schedule 3, paragraph 6.

(5) 1975 c. 16.

(6) S.I.1983/686; relevant amending instruments are S.I. 1983/1164 and 1984/1675.

(7) Section 84(1) was amended by the Social Security Act 1989 (c. 24), Schedule 8, paragraph 19(e).

“boarder” means a person who pays a charge for his accommodation and at least some cooked or prepared meals which are both prepared and consumed in that accommodation or associated premises;

“child” means a person under the age of 16;

“child benefit” means child benefit under Part I of the Child Benefit Act 1975⁽⁸⁾;

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple;

“community charge benefits” means community charge benefits under Part II of the 1986 Act⁽⁹⁾;

“concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit under the 1986 Act, the 1975 Act or the Child Benefit Act 1975 are charged;

“earnings” has the meaning assigned by regulation 21 or, as the case may be, 23;

“employed earner” is to be construed in accordance with section 2(1)(a) of the 1975 Act;

“family” means—

- (a) a married or unmarried couple;
- (b) a married or unmarried couple and a member of the same household for whom one of them is or both are responsible and who is a child or a young person;
- (c) a person who is not a member of a married or unmarried couple and a member of the same household for whom that person is responsible and who is a child or a young person;

“health authority” has the same meaning as in section 128(1) of the National Health Service Act 1977⁽¹⁰⁾;

“housing benefit” means housing benefit under Part II of the 1986 Act;

“income-related benefit” means any benefit to which section 20(1) of the 1986 Act refers;

“income support” means income support under Part II of the 1986 Act;

“the Independent Living Fund” means the charitable trust established out of funds provided by the Secretary of State for the purpose of providing financial assistance to those persons incapacitated by or otherwise suffering from very severe disablement who are in need of such assistance to enable them to live independently;

“invalid carriage or other vehicle” means a vehicle propelled by petrol engine or electric power supplied for use on the road and to be controlled by the occupant;

“local authority” means—

- (a) in relation to England and Wales, the council of a district or London borough, the Common Council of the City of London or the Council of the Isles of Scilly; and
- (b) in relation to Scotland, an islands or district council;

“lone parent” means a person who has no partner and who is responsible for and a member of the same household as a child or young person;

“the MacFarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

⁽⁸⁾ 1975 c. 61.

⁽⁹⁾ Part II was amended by Schedule 10 to the Local Government Finance Act 1988 (c. 41).

⁽¹⁰⁾ 1977 c. 49; this definition was substituted by paragraph 11 of Schedule 3 to the Health and Social Security Act 1984 (c. 48).

“the MacFarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990, partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;

“married couple” has the meaning assigned to it by section 20(11) of the 1986 Act;

“member of a couple” means a member of a married or unmarried couple;

“mobility allowance” means an allowance under section 37A of the 1975 Act⁽¹¹⁾;

“mobility supplement” means a supplement to which paragraph 7 of Schedule 3 refers;

“net earnings” means such earnings as are determined in accordance with regulation 22;

“net profit” means such profit as is determined in accordance with regulation 24;

“non-dependant” has the meaning assigned by regulation 4;

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“partner” means—

- (a) where a person is a member of a married or unmarried couple, the other member of that couple; or
- (b) where a person is polygamously married to two or more members of his household, any such member;

“payment” includes part of a payment;

“policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

“polygamous marriage” means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;

“rates”—

- (a) in relation to England and Wales, has the same meaning as in the General Rate Act 1967⁽¹²⁾; and
- (b) in relation to Scotland, has the same meaning as in section 379 of the Local Government (Scotland) Act 1947⁽¹³⁾ except that it does not include domestic water rate within the meaning of section 39 of the Water (Scotland) Act 1980;⁽¹⁴⁾

“relevant person” has the meaning assigned by regulation 3;

“remunerative work” has the meaning assigned by regulation 5;

“self-employed earner” is to be construed in accordance with section 2(1)(b) of the 1975 Act;

“single person” means a person who neither has a partner nor is a lone parent;

“social fund payment” means a payment under section 32 of the 1986 Act;

“student” has the meaning assigned by regulation 38;

⁽¹¹⁾ Section 37A was inserted by section 22(1) of the Social Security Pensions Act 1975 (c. 60) and amended by the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 64, the Social Security Act 1979 (c. 18), section 3 and the Social Security Act 1986, section 71 and Schedule 11.

⁽¹²⁾ 1967 c. 9.

⁽¹³⁾ 1947 c. 43 (10 & 11 Geo. 6).

⁽¹⁴⁾ 1980 c. 45.

“training allowance” has the meaning assigned by regulation 2(1) of the Housing Benefit (General) Regulations 1987⁽¹⁵⁾;

“unmarried couple” means a man and woman who are not married to each other but are living together as husband and wife;

“war disablement pension” has the meaning assigned by section 84(1) of the 1986 Act;

“war widow’s pension” has the meaning assigned by section 84(1) of the 1986 Act⁽¹⁶⁾;

“year of assessment” has the meaning assigned by section 832(1) of the Income and Corporation Taxes Act 1988⁽¹⁷⁾;

“young person” means a person, not being a person who is in receipt of income support or a person who is receiving advanced education within the meaning of regulation 12(2) of the Income Support (General) Regulations 1987⁽¹⁸⁾ (relevant education), aged 16 or over but under 19 who is treated as a child for the purposes of section 2 of the Child Benefit Act 1975⁽¹⁹⁾ (meaning of child).

- (2) In these Regulations, unless the context otherwise requires, a reference—
- (a) to a numbered Part is to the Part of these Regulations bearing that number;
 - (b) to a numbered regulation or Schedule is to the regulation in, or the Schedule to, these Regulations bearing that number;
 - (c) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
 - (d) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

Definition of relevant person

3.—(1) Subject to paragraphs (2) and (3), in respect of any one application a relevant person is any person who—

- (a) is an applicant, or
- (b) is not an applicant but is entitled to make the application and lives or intends to live in the dwelling or, as the case may be, a flat in the building or,
- (c) where the application is for a disabled facilities grant, is the disabled occupant or one of the disabled occupants and is neither a person to whom sub-paragraph (a) or (b) applies nor a child or young person.

(2) Where any of sub-paragraphs (a), (b) or (c) of paragraph (1) applies to both members of a couple or to more than one member of a polygamous marriage, one member only of that couple or of that polygamous marriage shall be a relevant person in respect of that application.

(3) A young person shall not be a relevant person except where he is the only applicant.

Definition of non-dependant

4.—(1) In these Regulations, “non-dependant” means any person, except someone to whom paragraph (2) applies, who normally resides with a relevant person.

(2) This paragraph applies to—

⁽¹⁵⁾ S.I. 1987/1971; the definition was inserted by S.I. 1990/546, regulation 2(b).

⁽¹⁶⁾ The definitions were amended by the Income and Corporation Taxes Act 1988 (c. 1), Schedule 29, paragraph 32, Table.

⁽¹⁷⁾ 1988 c. 1.

⁽¹⁸⁾ S.I. 1987/1967; regulation 12 was substituted by regulation 5 of S.I. 1990/547.

⁽¹⁹⁾ 1975 c. 61; section 2 was amended by sections 4 and 8 of, and Schedule 5, Part I to, the Social Security Act 1980 (c. 30), section 70 of the Social Security Act 1986 and section 4(3) of the Social Security Act 1988(c. 7).

- (a) any member of the relevant person's family;
 - (b) if the relevant person is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
 - (c) a child or young person who is living with the relevant person but who is not a member of his household by virtue of regulation 7 (membership of the same household);
 - (d) subject to paragraph (3), a person who jointly occupies the relevant person's dwelling and is either a co-owner of that dwelling with the relevant person or his partner (whether or not there are other co-owners) or is liable with the relevant person or his partner to make payments in respect of his occupation of the dwelling;
 - (e) subject to paragraph (3), any person who is liable to make payments on a commercial basis to the relevant person or the relevant person's partner or to whom or to whose partner the relevant person or the relevant person's partner is liable to make payments on a commercial basis, in respect of the occupation of the dwelling;
 - (f) a person who lives with the relevant person in order to care for him or a partner of his and who is engaged by a charitable or voluntary body (other than a public or local authority) which makes a charge to the relevant person or his partner for the services provided by that person.
- (3) Excepting persons to whom paragraph (2)(a) to (c) and (f) refer, a person shall be a non-dependant if he resides with a relevant person to whom he is liable to make payments in respect of the dwelling and either—
- (a) that relevant person is a close relative of his or his partner, or
 - (b) the tenancy or other agreement between them is other than on a commercial basis.
- (4) For the purposes of this regulation—
- (a) a person resides with another only if they share any accommodation except a bathroom, a lavatory or a communal area but not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord;
 - (b) "communal area" means an area, other than a room or rooms, of common access (including halls and passageways).

Remunerative work

5.—(1) Subject to the following provisions of this regulation, a person shall be treated for the purposes of these Regulations as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 24 hours a week, in work for which payment is made or which is done in expectation of payment.

(2) In determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard shall be had to the average of hours worked over—

- (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does not work, those periods but disregarding any other absences);
- (b) in any other case, the period of 5 weeks immediately prior to the date of the application, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.

(3) Where no recognisable cycle has been established in respect of a person's work, regard shall be had to the number of hours or, where those hours fluctuate, the average of the hours, which he is expected to work in a week.

(4) A person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(5) A person in receipt of income support for more than 3 days in any period of 7 consecutive days commencing upon a Monday and ending on a Sunday shall be treated as not being in remunerative work in that week.

Circumstances in which a person is to be treated as responsible or not responsible for another

6.—(1) Subject to the following provisions of this regulation a person shall be treated as responsible for a child or young person who is normally living with him.

(2) Where there is a question as to which person a child or young person is normally living with, the child or young person shall be treated for the purposes of paragraph (1) as normally living with—

- (a) the person who is receiving child benefit in respect of him; or
- (b) if there is no such person—
 - (i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or
 - (ii) in any other case the person who has the primary responsibility for him.

(3) For the purposes of these Regulations any person other than the one treated as responsible for the child or young person under this regulation shall be treated as not so responsible.

Circumstances in which a person is to be treated as being or not being a member of the household

7.—(1) Subject to paragraphs (2) to (4), a relevant person and any partner and, where the relevant person or his partner is treated as responsible by virtue of regulation 6 (circumstances in which a person is to be treated as responsible or not responsible for another) for a child or young person, that child or young person and any child of that child or young person, shall be treated as members of the same household where any of them is absent from the dwelling occupied as his home.

(2) A child or young person shall not be treated as a member of the relevant person's household where he is—

- (a) boarded out with the relevant person or his partner under a relevant enactment; or
- (b) boarded out with the relevant person or his partner prior to adoption; or
- (c) placed for adoption with the relevant person or his partner pursuant to a decision under the Adoption Agencies Regulations 1983⁽²⁰⁾ or the Adoption Agencies (Scotland) Regulations 1984⁽²¹⁾.

(3) Subject to paragraph (4), paragraph (1) shall not apply to a child or young person who is not living with the relevant person and he—

- (a) is in the care of a local authority under a relevant enactment; or
- (b) has been boarded out with a person other than the relevant person prior to adoption; or
- (c) has been placed for adoption pursuant to a decision under the Adoption Agencies Regulations 1983 or the Adoption Agencies (Scotland) Regulations 1984.

⁽²⁰⁾ S.I. 1983/1964.

⁽²¹⁾ S.I. 1984/988.

(4) A child or young person to whom paragraph (3)(a) applies shall be treated as being a member of the relevant person's household in any period of 7 consecutive days commencing upon a Monday and ending on a Sunday where—

- (a) that child or young person lives with the relevant person for part or all of that period, and
- (b) it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.

(5) In this regulation "relevant enactment" means the Army Act 1955(22), the Air Force Act 1955(23), the Naval Discipline Act 1957(24), the Adoption Act 1958(25), the Matrimonial Proceedings (Children) Act 1958(26), the Children Act 1958(27), the Social Work (Scotland) Act 1968(28), the Family Law Reform Act 1969(29), the Children and Young Persons Act 1969(30), the Matrimonial Causes Act 1973(31), the Guardianship Act 1973(32), the Children Act 1975(33), the Domestic Proceedings and Magistrates' Courts Act 1978(34), the Adoption (Scotland) Act 1978(35), the Child Care Act 1980(36) and the Foster Children Act 1980(37).

The applicable amount

8. The applicable amount in respect of any one application shall be the aggregate of—
- (a) the total of the weekly applicable amounts of all those persons who are relevant persons in the case of that application, and
 - (b) £20;

and the applicable amount of each relevant person shall be determined in accordance with regulation 12.

Financial resources

9. In respect of any one application, the amount which is to be taken to be the financial resources of the applicant or applicants shall be the total of the incomes of all those persons who are relevant persons in the case of that application, and the income of each relevant person shall be determined in accordance with regulation 16.

(22) 1955 c. 18.
(23) 1955 c. 19.
(24) 1957 c. 53.
(25) 1958 c. 5.
(26) 1958 c. 40.
(27) 1958 c. 65.
(28) 1968 c. 49.
(29) 1969 c. 46.
(30) 1969 c. 54.
(31) 1973 c. 18.
(32) 1973 c. 29.
(33) 1975 c. 72.
(34) 1978 c. 22.
(35) 1978 c. 28.
(36) 1980 c. 5.
(37) 1980 c. 6.