
STATUTORY INSTRUMENTS

1990 No. 2564

**HOUSING, ENGLAND AND WALES
HOUSING, SCOTLAND
SOCIAL SECURITY**

**The Housing Benefit (General)
Amendment No. 3 Regulations 1990**

Made - - - - *14th December 1990*
Laid before Parliament *19th December 1990*
Coming into force - - *14th January 1991*

The Secretary of State for Social Security in exercise of powers conferred by section 20(1)(c), (12) (h) and (i), and 84(1) of the Social Security Act 1986(1) and section 166(1) to (3A) of the Social Security Act 1975(2) and of all other powers enabling him in that behalf after consultation with organisations appearing to him to be representative of authorities concerned(3) and after reference to the Social Security Advisory committee(4), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (General) Amendment No. 3 Regulations 1990 and shall come into force on 14th January 1991.

(2) In these Regulations “the General Regulations” means the Housing Benefit (General) Regulations 1987(5).

Amendment of regulation 6 of the General Regulations

2. In regulation 6 of the General Regulations (circumstances in which a person is to be treated as liable to make payments in respect of a dwelling) at the beginning there shall be inserted the

(1) 1986 c. 50; section 84 is an interpretation provision and is cited because of the meanings assigned to the words “prescribed” and “regulations”.

(2) 1975 c. 14; sub-section (3A) was inserted by section 62(1) of the Social Security Act 1986 and section 166(1) to (3A) was applied by section 83(1) of that Act.

(3) See section 61(7) of the Social Security Act 1986.

(4) See the Social Security Act 1980 (c. 30), section 10(1); sub-section (1) was amended by the Social Security Act 1986, Schedule 10, paragraph 98(a).

(5) S.I.1987/1971, to which there are amendments not relevant to these Regulations.

words “Subject to regulation 7 (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling)”.

Amendment of regulation 7 of the General Regulations

3. In regulation 7 of the General Regulations (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) at the end there shall be added the following—

“(e) a person, except one to whom paragraph (2) applies, who is in residential accommodation.

(2) This paragraph applies to a person who—

- (a) is in remunerative work; or
- (b) is liable to make payments in respect of the dwelling to a close relative with whom he does not reside and the tenancy or other agreement between them is on a commercial basis; or
- (c) was or became entitled immediately before 30th October 1990 to housing benefit in respect of residential accommodation; or
- (d) became or becomes entitled to housing benefit in respect of such accommodation on or after that date but only if the claim was made or, as the case may be, the appropriate authority is satisfied that the claim was sent or delivered to the appropriate DSS office or designated office in accordance with regulation 72(4) (time and manner in which claims are made), before that date.

(3) In this regulation “residential accommodation” means accommodation which is provided by an establishment—

- (a) registered under Part I of the Registered Homes Act 1984⁽⁶⁾;
- (b) in Scotland, which is a home registered under section 61 of the Social Work (Scotland) Act 1968⁽⁷⁾ or is an establishment provided by a housing association registered with Scottish Homes established by the Housing (Scotland) Act 1988⁽⁸⁾ which provides care equivalent to that given in residential accommodation provided under Part IV of the Social Work (Scotland) Act 1968;
- (c) in premises which are a nursing home or mental nursing home within the meaning of the Registered Homes Act 1984 and which are either registered under Part II of that Act or exempt from registration under section 37 thereof (power to exempt Christian Science Homes);
- (d) in any premises used or intended to be used for the reception of such persons or the provision of such nursing or services as are mentioned in any of subsections (1)(a) to (c) of section 21 or section 22(1) of the Registered Homes Act 1984 (meaning of nursing home or mental nursing home) or, in Scotland, as are mentioned in section 10(2) of the Nursing Homes Registration (Scotland) Act 1938⁽⁹⁾ (interpretation) and which are maintained or controlled by a body instituted by special Act of Parliament or incorporated by Royal Charter;

⁽⁶⁾ 1984 c. 23.

⁽⁷⁾ 1968 c. 49; section 61 was amended by virtue of the Criminal Procedure (Scotland) Act 1975 (c. 21), section 289C(1) and Schedule 7C inserted by the Criminal Law Act 1977 (c. 45), section 63(1) and Schedule 11, paragraphs 5 and 13 and section 289G inserted by the Criminal Justice Act 1982 (c. 48), section 54, and by sections 1 and 2 of the Registered (Establishments) (Scotland) Act 1987 (c. 40).

⁽⁸⁾ 1988 c. 43.

⁽⁹⁾ 1938 c. 73; section 10 was amended by section 15 of the Mental Health (Scotland) Act 1960 (c. 61) and that amendment is prescribed notwithstanding the repeal of that Act by section 126(1) of the Mental Health (Scotland) Act 1984 (c. 36); subsection (2) of section 10 was added by section 26 of, and paragraph 14(b) of Schedule 4 to the Health Services Act 1980 (c. 53); section 10 was also amended by Schedule 1 to the National Health Service (Scotland) Act 1972 (c. 58), by Schedules 7 and 8 to the Nurses, Midwives and Health Visitors Act 1979 (c. 36) and by Schedule 7 to the Health Services Act 1980.

- (e) in Scotland—
 - (i) in premises which are a nursing home within the meaning of section 10 of the Nursing Homes Registration (Scotland) Act 1938 which are either registered under that Act or exempt from registration under section 6 or 7 thereof⁽¹⁰⁾ (general power to exempt homes and power to exempt Christian Science Homes);
 - (ii) in premises which are a private hospital within the meaning of section 12 of the Mental Health (Scotland) Act 1984⁽¹¹⁾ (private hospitals) and which are registered under that Act; or
- (f) in respect of which—
 - (i) a person has been registered under the Registered Homes Act 1984 and which has ceased to be a residential care home or, as the case may be, a nursing home within the meaning of that Act; and
 - (ii) an application for registration under that Act has been made by another person and that application has not been determined or abandoned.”.

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

14th December 1990

Nicholas Scott
Minister of State,
Department of Social Security

⁽¹⁰⁾ Section 6 was amended by paragraph 75 of Schedule 6 to the National Health Service (Scotland) Act 1972 (c. 58) and by Schedule 15 to the National Health Service (Scotland) Act 1978 (c. 29); section 7 was amended by section 26(2) of, and by paragraph 12 of Schedule 4 to, the Health Services Act 1980.

⁽¹¹⁾ 1984 c. 36.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit (General) Regulations 1987 in the following respects—

- (a) they restrict the circumstances in which a person is to be treated as liable to make payments in respect of a dwelling (regulation 2);
- (b) they provide that, with specified exceptions, a person is to be treated as not liable to make payments in respect of a dwelling where he is in a residential care home or nursing home (regulation 3).

The report of the Social Security Advisory Committee dated December 1990 on the proposals to make these Regulations together with the statement showing the extent to which the Regulations give effect to them and, in so far as they do not give effect to them, the reasons why not are contained in Command Paper No. 1385 published by Her Majesty's Stationery Office.