
STATUTORY INSTRUMENTS

1990 No. 546

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

The Housing Benefit (General) Amendment Regulations 1990

Made - - - - *8th March 1990*

Laid before Parliament *12th March 1990*

Coming into force

*for the purposes of all the
regulations to the extent they
relate to cases referred to in
regulation 1(2)*

1st April 1990

For all other purposes

2nd April 1990

The Secretary of State for Social Security in exercise of powers conferred by sections 20(1)(c), (8), (11), (12)(i), 21(6), 22(1), (3), (8), (9), 29(2), 30(2B) and (2C), 51(1)(a), (l), (m), (r) and (t), 51B(1) 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 agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it⁽⁴⁾, hereby makes the following Regulations:

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- (1) 1986 c. 50; section 21(6) was amended by the Housing Act 1988 (c. 50), section 121(4) and the Housing (Scotland) Act 1988 (c. 43), section 70(3); subsections (2B) and (2C) of section 30 were inserted by the Social Security Act 1989 (c. 24), section 15(1); section 51B was inserted by the Local Government Finance Act 1988 (c. 41), section 135 and Schedule 10, paragraph 8; section 84(1) is an interpretation provision and is cited because of the meanings assigned to the words “prescribed” and “regulations”.
- (2) 1975 c. 14; subsection (3) was amended by the Social Security Act 1989 (c. 24), section 31(1) and Schedule 8, paragraph 10; subsection (3A) was inserted by section 62 of the Social Security Act 1986 and section 166(1) to (3A) is 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 1986, section 61(1)(b) and (10). The Social Security Act 1989 (c. 24), Schedule 8, added a definition of “regulations” to section 61(10) of the Act of 1986.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (General) Amendment Regulations 1990 and shall come into force—

- (a) in any case to which paragraph (2) applies, on 1st April 1990, and
- (b) in any other case, on 2nd April 1990.

(2) This paragraph applies in any case where rent is payable at intervals of one month or any other interval which is not a week or a multiple thereof.

(3) In any case in which these Regulations and the Social Security Benefits Up-Rating Order 1990⁽⁵⁾ come into force on the same day, these Regulations shall come into force immediately after that Order.

(4) In these Regulations “the General Regulations” means the Housing Benefit (General) Regulations 1987⁽⁶⁾.

Amendment of regulation 2 of the General Regulations

2. In regulation 2(1) of the General Regulations (interpretation)—

- (a) in the definition of “lone parent” for the words “is not a” there shall be substituted the words “has no”;
- (b) after the definition of “the Macfarlane Trust” there shall be inserted the following definition—

““training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of the Training Agency;
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of that Agency,

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973⁽⁷⁾ or is training as a teacher;”.

Amendment of regulation 3 of the General Regulations

3. In regulation 3(2)(d) of the General Regulations (definition of non-dependent) at the end there shall be added the words “and is either a co-owner of that dwelling with the claimant or his partner (whether or not there are other co-owners) or is liable with the claimant or his partner to make payments in respect of his occupation of the dwelling.”.

⁽⁵⁾ S.I.1990/320.

⁽⁶⁾ S.I. 1987/1971.

⁽⁷⁾ 1973 c. 50.

Amendment of regulation 11 of the General Regulations

4. In regulation 11(1A) of the General Regulations (restrictions on unreasonable payments)(8), at the end there shall be inserted the words “during the period of 12 months beginning with the first day on which that determination had effect.”.

Insertion of regulation 12A in the General Regulations

5. The following regulation shall be inserted after regulation 12 of the General Regulations (restrictions on rent increases)–

“Requirement to refer to rent officers

12A.—(1) Subject to paragraph (2), an appropriate local authority shall apply to a rent officer for a determination to be made in pursuance of the Housing Act functions where it has received–

- (a) a claim on which rent allowance may be awarded; or
- (b) a notification of a change relating to a rent allowance.

(2) An application shall not be required under paragraph (1) where a claim or notification relates to either–

- (a) a dwelling in a hostel if, during the period of 12 months which ends on the day on which that claim or notification is received by the appropriate local authority–
 - (i) a rent officer has already made a determination in the exercise of the Housing Act functions in respect of a dwelling in that hostel which is a similar dwelling to the dwelling to which the claim or notification relates; and
 - (ii) that determination or, if there has been more than one such determination, the most recent, was made in respect of a claim for a period beginning on or after 9th October 1989; and
 - (iii) there has been no change relating to a rent allowance that has affected the dwelling in respect of which that determination was made; or
- (b) an “excluded tenancy” within the meaning of Schedule 1A (excluded tenancies).

(3) Where an application to a rent officer is required by paragraph (1) it shall be made within 3 days, or as soon as practicable thereafter, of the appropriate local authority receiving–

- (a) a claim on which rent allowance may be awarded; or
- (b) a notification of a change relating to a rent allowance.

(4) For the purposes of calculating the period of 3 days mentioned in paragraph (3), no regard shall be had to any day on which the offices of the appropriate local authority are closed for the purposes of receiving or determining claims.

(5) In a pre-commencement case in which an appropriate local authority has not made an application to a rent officer to make a determination in the exercise of the Housing Act functions but would have been under a duty to make such an application if paragraphs (1) to (3) and (7) had been in force, an appropriate local authority shall apply to a rent officer for a determination to be made in pursuance of those functions within 6 weeks of–

- (a) 2nd April 1990; or

(8) See S.I. 1989/566.

(b) the date on which, in the opinion of the appropriate local authority, all of the information which a rent officer would require for the purposes of exercising the Housing Act functions has been received by the appropriate authority, whichever is the later.

(6) Applications referred to rent officers under paragraph (5) shall be determined—

- (a) in a case in which the tenancy has come to an end before the application is referred to the Rent Officer, on the assumption that the facts relevant to the determination of that application were those which existed on the last day of the tenancy, and
- (b) in any other case, on the assumption that the facts relevant to the determination of the application are those which exist on the date on which that application is referred.

(7) For the purposes of this regulation a dwelling in a hostel shall be regarded as similar to another dwelling in that hostel if each provides sleeping accommodation for the same number of persons.

(8) In this regulation—

“change relating to a rent allowance” means a change or increase to which paragraph 2(3)(a), (b), (c) or (d) of Schedule 1A applies;

“determination” includes a further determination but does not include a re-determination within the meaning of the Order or, as the case may be, the Scottish Order or an interim determination;

“hostel” means a building—

- (a) in which there is provided for persons generally or for a class of persons, domestic accommodation, otherwise than in separate and self-contained premises, and either board or facilities for the preparation of food adequate to the needs of those persons, or both and—
- (b) which is—
 - (i) managed or owned by a registered housing association; or
 - (ii) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a government department or agency or a local authority; or
 - (iii) managed by a voluntary body or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community;

other than a residential care home, a nursing home or residential accommodation within the meaning of regulation 21(3) of the Income Support (General) Regulations 1987⁽⁹⁾;

“Housing Act functions” has the same meaning as in section 30(2A) of the Act;

“Housing for Wales” has the same meaning as in section 46 of the Housing Act 1988⁽¹⁰⁾;

“nursing home” and “residential care home” have the same meanings as in regulation 19(3) of the Income Support (General) Regulations 1987⁽¹¹⁾ (income support applicable amounts for persons in residential care and nursing homes);

⁽⁹⁾ S.I. 1987/1967.

⁽¹⁰⁾ 1988 c. 50.

⁽¹¹⁾ S.I. 1987/1967, the relevant amending instruments are S.I. 1988/663 and 1445.

“pre-commencement case” has the same meaning as in section 30(2C) of the Act⁽¹²⁾;

“registered housing association” means a housing association which is registered in a register maintained under section 3 of the Housing Associations Act 1985⁽¹³⁾ by the Housing Corporation, Scottish Homes or Housing for Wales;

“Scottish Homes” has the same meaning as in section 1 of the Housing (Scotland) Act 1988⁽¹⁴⁾ ;

“tenancy” includes–

(a) in Scotland, any other right of occupancy; and

(b) in any other case, a licence to occupy premises,

and reference to a tenant, landlord or any other expression appropriate to a tenancy shall be construed accordingly;

“the Housing Corporation” has the same meaning as in Part III of the Housing Associations Act 1985;”.

Amendment of regulation 13 of the General Regulations

6. In regulation 13(2) of the General Regulations (persons of a prescribed description) there shall be added at the end the words “or to a person who is receiving advanced education within the meaning of regulation 12(2) of the Income Support (General) Regulations 1987, (relevant education).”.

Amendment of regulation 34 of the General Regulations

7. In regulation 34 of the General Regulations (capital treated as income), after paragraph (2) there shall be added the following paragraph–

“(3) Any earnings to the extent that they are not a payment of income shall be treated as income.”.

Amendment of regulation 40 of the General Regulations

8. In regulation 40 of the General Regulations (income treated as capital) at the end there shall be added the following paragraph–

“(6) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust or the Independent Living Fund, shall be treated as capital.”.

Amendment of regulation 56 of the General Regulations

9. In regulation 56 of the General Regulations (disregard of certain student’s income other than covenant and grant income)–

(a) for the words “only if, and to the extent that,” there shall be substituted the words “to the extent that”;

(b) for the amount “£5” there shall be substituted the amount “£10”.

Amendment of regulation 63 of the General Regulations

10. In regulation 63 of the General Regulations (non-dependent deductions)–

⁽¹²⁾ Section 30(2C) was inserted by the Social Security Act 1989 (c. 24), section 15(1).

⁽¹³⁾ 1985 c. 69, section 3 was amended by the Housing Act 1988 (c. 50), section 59 and Schedule 6, paragraph 3.

⁽¹⁴⁾ 1988 c. 43.

- (a) in paragraph (1)(a) the words “or a boarder aged 18 or over” shall be omitted;
- (b) in paragraph (2) the words “and of a boarder aged 18 or over in remunerative work” shall be omitted;
- (c) at the end of paragraph (6)(b) there shall be added the words “in respect of himself.”;
- (d) in paragraph (7) in sub-paragraphs (b) and (c) the words “and is not a boarder” in each of those sub-paragraphs shall be omitted;
- (e) in paragraph (8) the words “Except in the case of a boarder aged 18 or over,” shall be omitted.

Amendment of regulation 67 of the General Regulations

11. In regulation 67 of the General Regulations (date on which benefit period is to end) for the words following “unless” to the end of the regulation there shall be substituted the words–

- “(a) the claimant is a person on income support and he ceases to be entitled when, except in cases to which sub-paragraph (b) refers, the benefit period will end with the last day of the benefit week in which the cessation of his entitlement takes effect in accordance with regulation 68(1) (date when change of circumstances is to have effect);
- (b) the claimant is a person on income support and he ceases to be entitled on account of an award of benefit under the Social Security Act when the benefit period will end at the end of the benefit week in which the payment of income support ceases; or
- (c) the appropriate authority determines that some other change of circumstances has occurred which should result in the benefit period ending with an earlier week when the benefit period will end with the last day of that week.”.

Amendment of regulation 81 of the General Regulations

12. In regulation 81 of the General Regulations (further review of determinations) for paragraph (4) there shall be substituted the following paragraph–

- “(4) Notwithstanding paragraph (3) where–
 - (a) a person has requested a further review of a determination, and
 - (b) he has also, in connection with a claim for community charge benefit, requested a further review of a determination relating to community charge benefit in accordance with regulation 69 of the Community Charge Benefits (General) Regulations 1989(15) (further reviews of determinations with respect to community charge benefit),

a Review Board appointed in accordance with that regulation may also be appointed under this regulation to conduct a further review of the determination in respect of housing benefit at the same time, provided that the person who has made the representation against each determination and any person affected agree to this course.”.

Insertion of Schedule 1A

13. After Schedule 1 to the General Regulations (ineligible service charges) there shall be inserted Schedule 1A set out in Schedule 1 to these Regulations.

Amendment of Schedule 2 to the General Regulations

14. In Schedule 2 to the General Regulations (applicable amounts)–

- (a) in paragraph 6, in sub-paragraph (1) for the words from “either the higher pensioner premium” to the end of that sub-paragraph there shall be substituted the words “any other premium which may apply under this Schedule.”;
- (b) in paragraph 7(b) after the words “Employment and Training Act 1973” there shall be added the words “or for any period during which he is in receipt of a training allowance”;
- (c) in paragraph 8 for the words from “is a member” to the end there shall be substituted the words “is a lone parent”;
- (d) at the end of paragraph 10(3) there shall be added–
 - “(c) where the claimant or his partner–
 - (i) was entitled to community charge benefit at any time in the period of 8 weeks before becoming entitled or re-entitled to housing benefit, and
 - (ii) satisfied the conditions in respect of the higher pensioner premium under paragraphs 11 and 13 of Schedule 1 to the Community Charge Benefits (General) Regulations 1989,for the purpose of establishing entitlement or re-entitlement to housing benefit, he or his partner shall be treated as satisfying the equivalent conditions for higher pensioner premium under this paragraph and paragraph 12.”;
- (e) in paragraph 12–
 - (i) in sub-paragraph (1) for head (b) there shall be substituted the following–
 - “(b) the circumstances of the claimant fall, and have fallen, in respect of a continuous period of not less than 28 weeks, within sub-paragraph (6) or, if he was in Northern Ireland for the whole or part of that period, within one or more comparable Northern Irish provisions.”;
 - (ii) in sub-paragraph (5) after the words “Employment and Training Act 1973” there shall be added the words “or for any period during which he is in receipt of a training allowance”;
 - (iii) at the end of paragraph 12 there shall be added the following sub-paragraphs–
 - “(6) For the purposes of sub-paragraph (1)(b) the circumstances of a claimant fall within this sub-paragraph if–
 - (a) he provides evidence of incapacity in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976⁽¹⁶⁾ (evidence of incapacity for work) in support of a claim for sickness benefit, invalidity pension or severe disablement allowance within the meaning of sections 14, 15 or 36 of the Social Security Act, provided that an adjudication officer has not determined he is not incapable of work, or
 - (b) he is in receipt of statutory sick pay within the meaning of Part I of the Social Security and Housing Benefits Act 1982⁽¹⁷⁾.”;
- (f) in paragraph 13–
 - (a) in sub-paragraph (2)(a)(iii) the words “no one is in receipt of” shall be omitted; and after the words “Social Security Act” there shall be inserted the words “is not in payment to anyone”;

⁽¹⁶⁾ S.I. 1976/615; relevant amending instruments S.I. 1982/699 and 1987/409.

⁽¹⁷⁾ 1982 c. 24.

- (b) in sub-paragraph (2)(b) for the words “there is someone in receipt of an invalid care allowance” there shall be substituted the words “an invalid care allowance is payable to someone”; and, for the words “there is no-one in receipt of such an allowance” there shall be substituted the words “such an allowance is not in payment to anyone”;
- (g) after paragraph 14A(18) there shall be inserted the following paragraph–

“Person in receipt of benefit

14B. For the purposes of this Part of this Schedule, a person shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.”.

Amendment of Schedule 3 to the General Regulations

15. In Schedule 3 to the General Regulations (sums to be disregarded in the calculation of earnings) in paragraph 3(7) for the words “income support.” there shall be substituted the words “housing benefit, community charge benefit or both.”.

Amendment of Schedule 4 to the General Regulations

16. In Schedule 4 to the General Regulations (sums to be disregarded in the calculation of income other than earnings)–

- (a) in paragraph 13 for the reference “paragraph 31” there shall be substituted the reference “paragraph 33”;
- (b) in paragraphs 13, 14 and 33 for the reference to “£5” in each of those paragraphs there shall be substituted references to “£10”;
- (c) in paragraph 19 the words “or a boarder” shall be omitted;
- (d) after paragraph 39 there shall be added the following paragraphs–

“**40.** Any community charge benefit.

41. Any payment in consequence of a reduction of a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988(19) or section 9A of the Abolition of Domestic Rates Etc (Scotland) Act 1987(20) (reduction of liability for personal community charges).

42. Where the claimant occupies a dwelling as his home and that dwelling is also occupied by a boarder who makes payments to the claimant in respect of his occupation–

- (a) £20.00 of any payment made by that boarder; and
- (b) if the payment exceeds £20.00, 50% of the excess.

43. Any special war widows payment made under–

- (a) the Naval and Marine Pay and Pensions (Special War Widows Payment) Order 1990 made under section 3 of the Naval and Marine Pay and Pensions Act 1865(21) ;
- (b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977(22) ;

(18) See S.I. 1988/1971.

(19) 1988 c. 41.

(20) 1987 c. 47.

(21) 1865 c. 73. Copies of the Order are available from: Ministry of Defence, NPC2, Room 317 Archway Block South, Old Admiralty Building, Spring Gardens, London SW1A 2BE.

(22) Army Code no. 13045 published by HMSO.

- (c) the Queen’s Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917(23) ;
- (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980(24) ;
- (e) the Orders dated 19th February 1990 amending Orders made on 12th December 1980 concerning the Ulster Defence Regiment made in each case under section 140 of the Reserve Forces Act 1980(25);

and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under the provisions mentioned in sub-paragraphs (a) to (e) of this paragraph.”.

Amendment of Schedule 5 to the General Regulations

17. In Schedule 5 to the General Regulations (capital to be disregarded), after paragraph 34 there shall be added the following paragraphs—

“35. Any community charge benefit.

36. Any payment in consequence of a reduction of a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988 or section 9A of the Abolition of Domestic Rates Etc (Scotland) Act 1987 (reduction of liability for personal community charge) but only for a period of 52 weeks from the date of the receipt of the payment.

37. Any grant made to the claimant in accordance with a scheme made under section 129 of the Housing Act 1988(26) or section 66 of the Housing (Scotland) Act 1988(27) (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—

- (a) to purchase premises intended for occupation as his home; or
- (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,

for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the claimant to commence occupation of those premises as his home.”.

Amendments relating to the abolition of domestic rates

18.—(1) There shall be omitted from the General Regulations the provisions and words specified in column (1) of Part I of Schedule 2 hereto.

(2) For the provisions, words and references in the General Regulations which are specified in column (1) of Part II of Schedule 2 hereto there shall be substituted the provisions, words and references specified opposite in column (3) of that Part.

Transitional provision

19.—(1) A claim for housing benefit in the form of a rate rebate in respect of a period falling before 1st April 1990 may be made on or after that date.

(23) 1917 c. 51. Queen’s Regulations for the Royal Air Force are available from HMSO.

(24) 1980 c. 9. Copies of the Regulations are available from: Ministry of Defence at the address given in footnote (d) page 7.

(25) Army Code no. 60589 published by HMSO.

(26) 1988 c. 50.

(27) 1988 c. 43.

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(2) The appropriate authority may treat a claim for community charge benefit as being, in addition, a claim for housing benefit in the form of a rate rebate in respect of a period falling before 1st April 1990.

(3) Where—

- (a) the claimant makes a claim which is, or is treated as, a claim for housing benefit in the form of a rate rebate under paragraph (1) or (2) above in respect of a period ending not later than 31st March 1990; and
- (b) he proves that there was good cause for his failure to make that claim throughout the period between any date falling on or before 31st March 1990 and the date on which the claim was or was treated as made,

his claim shall be treated, subject to section 165A of the Social Security Act 1975⁽²⁸⁾ (52 week limit on entitlement before the date of claim), as if it were made on the first day of that earlier period from which he can prove good cause.

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

Gillian Shephard
Parliamentary Under-Secretary of State,
Department of Social Security

8th March 1990.

⁽²⁸⁾ 1975 c. 14; this section was substituted by paragraph 87 of Schedule 10 to the Social Security Act 1986 (c. 50) and is applied to housing benefit by paragraph 48 of Schedule 10 to that Act.

SCHEDULE 1

Regulation 13

TO BE INSERTED AFTER SCHEDULE 1 TO THE GENERAL REGULATIONS

“SCHEDULE 1A

Regulation 12A(2)(b)

EXCLUDED TENANCIES

1. An excluded tenancy is any tenancy to which any of the following paragraphs applies.

2.—(1) Subject to sub-paragraphs (2) and (3), where a rent officer has made a determination, which relates to the tenancy in question or any other tenancy of the same dwelling this paragraph applies to—

- (a) the tenancy in respect of which that determination was made; and
- (b) any other tenancy of the same dwelling on terms which are substantially the same, other than the term relating to the amount of rent, as those terms were at the time of that determination or, if earlier, at the end of the tenancy.

(2) Sub-paragraph (1) shall not apply unless the determination mentioned in that sub-paragraph is made within the period of 12 months ending on the date on which the relevant local authority received the claim or notification in question.

(3) Sub-paragraph (1) shall not apply where subsequent to the making of the determination mentioned in that sub-paragraph—

- (a) the number of occupiers of the dwelling has changed and that dwelling is not in a hostel;
- (b) there has been a substantial change in the condition of the dwelling (including the making of improvements) or the terms of the tenancy other than a term relating to rent;
- (c) there has been a rent increase under a term of the tenancy and the term under which that increase was made was either included in the tenancy at the time when the application for that determination was made (or was a term substantially the same as such a term) if—
 - (i) that determination was not made under paragraph 1(2) or 2(2) of Schedule 1 to the Order, or, as the case may be, paragraph 1(2) or 2(2) of Schedule 1 to the Scottish Order; and
 - (ii) any re-determination of that determination was not made under the relevant provisions; or
- (d) in the case of a dwelling which is in a hostel and in respect of which there has been only one increase in rent since that determination was made, if that increase has been made otherwise than under the terms of a tenancy agreement, and during the period beginning on 9th October 1989 and ending on 8th October 1990.

3. This paragraph applies to an assured tenancy, an assured agricultural occupancy or a licence to occupy, where the landlord (or any superior landlord) is a registered housing association, unless the local authority stated in the application for determination that the circumstances set out in regulation 11(2)(a) or (c) exist.

4.—(1) Subject to paragraph (2), this paragraph applies to a tenancy entered into before the relevant date where there was, current on that date, a benefit period within the meaning of regulation 66 (benefit period) relating to a claim for housing benefit in relation to the tenancy.

(2) This paragraph shall only apply—

- (a) until a change of circumstances takes effect within the meaning of regulation 68 (date on which change of circumstances is to take effect) after 16th April 1989; or

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- (b) until the benefit period ends or, if it ended before 17th April 1989, the next benefit period ends;

whichever first occurs.

(3) In sub-paragraph (1) “relevant date” means–

- (a) except where (b) applies, 1st April 1989;
- (b) in the case of a tenancy where one of the occupiers of the dwelling immediately before 10th April 1989 is in receipt of income support under the Act and whose applicable amount immediately before that date is calculated in accordance with regulation 10 or regulation 71(1)(b) of, or paragraph 17 of Schedule 7 to, the Income Support (General) Regulations 1987**(29)**, 10th April 1989.

5. This paragraph applies to a tenancy entered into before–

- (a) in Scotland, 2nd January 1989, and
- (b) in any other case, 15th January 1989.

6. This paragraph applies to a regulated tenancy within the meaning of–

- (a) in Scotland, the Rent (Scotland) Act 1984**(30)** and
- (b) in any other case, the Rent Act 1977**(31)**.

7. This paragraph applies to a housing association tenancy which–

- (a) in Scotland, is a tenancy to which Part VI of the Rent (Scotland) Act 1984 applies, and
- (b) in any other case, is a housing association tenancy to which Part VI of the Rent Act 1977 applies.

8. This paragraph applies to a protected occupancy or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976**(32)**.

9. This paragraph applies to a tenancy at a low rent within the meaning of Part I of the Landlord and Tenant Act 1954**(33)** or Schedule 10 to the Local Government and Housing Act 1989**(34)**.

10. This paragraph applies to a tenancy of any dwelling in a hostel for persons on bail or probation hostel under section 49(1) of the Powers of Criminal Courts Act 1973**(35)**.

11. This paragraph applies to a tenancy of a housing action trust established under Part III of the Housing Act 1988**(36)**.

12. In this Schedule–

“the Order” means–

- (a) in respect of a date falling before 2nd April 1990, the Rent Officers (Additional Functions) Order 1989**(37)**, and
- (b) in respect of a date falling on or after that date, the Rent Officers (Additional Functions) Order 1990**(38)**;

“rent” has the same meaning–

(29) S.I. 1987/1967; relevant amending instrument S.I. 1988/1445.

(30) 1984 c. 58.

(31) 1977 c. 42.

(32) 1976 c. 80.

(33) 1954 c. 56.

(34) 1989 c. 42.

(35) 1973 c. 62.

(36) 1988 c. 50.

(37) S.I. 1989/590, the relevant amending instrument is S.I. 1989/1430.

(38) S.I. 1990/428.

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- (a) in Scotland, as in section 25 of the Housing (Scotland) Act 1988, except that the reference to the house in subsection (3) shall be construed as a reference to the dwelling;
- (b) in any other case, as in section 14 of the Housing Act 1988, except that the reference to the dwelling-house in subsection (4) shall be construed as a reference to the dwelling;

“the relevant provisions” means–

- (a) as respects Scotland–
 - (i) in respect of a date falling before 2nd April 1990, Schedule 4 to the Scottish Order as applied by paragraphs 1(2) or 2(2) of Schedule 1 to that Order;
 - (ii) in respect of a date falling after that date, Schedule 3 to the Scottish Order as applied by paragraph 1(2) or 2(2) of Schedule 1 to that Order;
- (b) in any other case–
 - (i) in respect of a date falling before 2nd April 1990, Schedule 4 to the Order as applied by paragraphs 1(2) or 2(2) of Schedule 1 to that Order;
 - (ii) in respect of a date falling after that date, Schedule 3 to the Order as applied by paragraph 1(2) or 2(2) of Schedule 1 to that Order;

“the Scottish Order” means–

- (a) in respect of a date falling before 1st April 1990, the Rent Officers (Additional Functions) (Scotland) Order 1989(39) ; and
- (b) in respect of a date falling on or after that date, the Rent Officers (Additional Functions) (Scotland) Order 1990(40)

and other expressions have the same meaning as in regulation 12(8).”.

SCHEDULE 2

Regulation 18

PART I

OMISSION OF REFERENCES TO RATES

TABLE

(1) Provision or words	(2) Description
(a) (a) In regulation 6– (i) in paragraph (2) the words “or rate”; (ii) paragraph (3).	Circumstances in which a person is to be treated as liable to make payments in respect of a dwelling.
(b) (b) Regulation 9.	Rates.
(c) (c) In Regulation 10(3)(a) the words “rates or”.	Rent.
(d) (d) In regulation 11(2)–	Restrictions on unreasonable payments.

(39) S.I. 1989/578 the relevant amending instrument is S.I. 1989/1446.

(40) S.I. 1990/396 (s.45).

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(1) Provision or words	(2) Description
(i) sub-paragraph (b) and (ii) the words “eligible rates or, as the case may be,”.	
(e) (e) In regulation 35(4)(a) the words “or, as the case may be, rates”.	Notional income.
(f) (f) Regulation 64(1).	Minimum housing benefit.
(g) (g) In regulation 68(2) and (4) the words “or rates” in each place where they occur.	Date on which change of circumstances is to take effect.
(h) (h) In regulation 69– (i) paragraph 3; (ii) the words “or rates” in each place where they occur in paragraphs (4) to (7); (iii) in paragraph 5 the reference “or 3(b)”; the words “or daily rate” in each place in which they occur in sub-paragraphs (a) and (b) and the words “or rate” in sub-paragraph (c).	Calculation of weekly amount.
(i) (i) In regulation 70(4) the words “or rates”.	Rent and rate free periods.
(j) (j) Regulation 72(10).	Time and manner in which claims are to be made.
(k) (k) Regulation 75(2)(b).	Duty to notify changes of circumstances.
(l) (l) In regulation 88(1)(a) the words “or rates”.	Time and manner of payment.
(m) (m) Regulation 89.	Circumstances in which a rate rebate may be treated as if it fell to be paid as a rent allowance.
(n) (n) In regulation 91A the words “or rate” in each place where they occur.	Payment on account of a rent or rate free period.
(o) (o) In regulation 92(2) the words “or rate rebate”.	Payment to be made to a person entitled.
(p) (p) In Schedule 1, paragraph 6(2), the words “or rate”.	Ineligible service charges.
(q) (q) In Schedule 4, paragraph 15(2), the words “and payments of rates”.	Sums to be disregarded in the calculation of income other than earnings.
(r) (r) In Schedule 6 in paragraph 14(f) the words “or rate rebate”.	Matters to be included in the notice of determination.

PART II

AMENDMENT OF PROVISIONS WHICH REFER TO RATES

(1) Provision, words or reference	(2) Description	(3) Substituted provision, words or reference
Regulation 8(1)	Eligible housing costs	<p>“8.—(1) Subject to paragraph (2), housing benefit shall be payable in respect of the payments specified in regulation 10(1) (rent) and a claimant’s maximum housing benefit shall be calculated under Part VII (amount of benefit) by reference to the amount of his eligible rent determined in accordance with regulation 10(3) (rent).”</p>
Regulation 10(6)	Rent	<p>“(6) The amount of the deduction referred to in paragraph (3) shall be—</p> <ul style="list-style-type: none"> (a) except in a case to which sub-paragraph (c) applies, if the dwelling occupied by the claimant is a self-contained unit, the amount of the charges; (b) in any other case except one to which sub-paragraph (c) applies, the proportion of those charges in respect of the self-contained unit which is obtained by dividing the area of the dwelling occupied by the claimant by the area of the self-contained unit of which it forms part; (c) where the charges vary in accordance

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(1) Provision, words or reference	(2) Description	(3) Substituted provision, words or reference
		with the amount of water actually used, the amount which the appropriate authority considers to be fairly attributable to water, and sewerage services, having regard to the actual or estimated consumption of the claimant.”.
In regulations 16, 17, 18(1) and 21(1) the words “or rate free” in each place where they occur.	Applicable amounts and income.	“free”
In regulation 35(3)(a) the words “eligible rent or rates or both”.	Notional Income	“or eligible rent”
In regulation 43(3)(a) the words “eligible rent or rates or both”.	Notional capital	“or eligible rent”.
Regulation 61	Maximum housing benefit	“Maximum housing benefit
		61. The amount of a person’s maximum housing benefit in any week shall be 100% of his eligible rent calculated on a weekly basis in accordance with regulation 69 and 70 (calculation of weekly amount and rent free periods) less any deductions in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions).”.
In regulation 62 the words from “shall be” to the end.	Housing benefit tapers	“shall be 65%”
In regulation 63– (i) paragraph (1)	Non dependant deductions	(i) “63.— (1) Subject to the following

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		<p>provisions of this regulation, the deductions referred to in regulation 61 (maximum housing benefit) shall be—</p> <p>(a) in respect of a non-dependant aged 18 or over in remunerative work, £10.85 per week;</p> <p>(b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £4.55 per week.”.</p>
(ii) in paragraph (2) the word “deductions” in each place in which it occurs.	(ii) “deduction”.	
Regulation 70(1) and the heading to regulation 70.	Rent and rate free periods	<p>“Rent free periods</p> <p>70.—(1) This regulation applies to a claimant for any period (referred to in this regulation as a rent free period) in respect of which he is not liable to pay rent except for any period to which regulation 6(1)(d) (waiver of rent by landlord in return for work done) applies.”.</p>

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(1) Provision, words or reference	(2) Description	(3) Substituted provision, words or reference
In regulation 93 the words “or sums by way of rates are payable”.	Circumstances in which payment is to be made to a landlord.	“is payable”.
In Schedule 6– (i) in paragraph 9(e) the words “rent rebate or rate rebate,”;	Matters to be included in the notice of determination.	(i) “or rent rebate”.
(ii) in paragraph 13(1)(a) the reference “9(a)”.		(ii) “9(b)”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Housing Benefit (General) Regulations 1987.

They amend the provisions of regulation 11 (restriction on unreasonable payments) to provide that decisions of rent assessment committees shall only apply for 12 months (regulation 4).

They prescribe the circumstances in which, and the time within which, an appropriate local authority must apply to a rent officer for determination in respect of–

- (a) claims for rent allowances and
- (b) notifications of changes relating to a rent allowance.

The requirement to apply to a rent officer for such a determination applies to cases arising on or after 1st April 1989. The Regulations provide that in cases arising between that date and 1st April 1990 determinations by rent officers are to be made as at the date on which the claim for rent allowance or the notification relating to a rent allowance, was received by the appropriate local authority (regulations 5 and 12 and Schedule 1).

Regulation 13 of the General Regulations is amended so that young persons who are attending courses of advanced education are excluded from membership of the family for the purposes of housing benefit (regulation 6).

Regulation 34 of the General Regulations is amended so that earnings are treated as income in all cases (regulation 7).

The amendment of regulation 40 of the General Regulations provides that charitable or voluntary payments paid at irregular intervals shall be treated as capital (regulation 8). In the case of students the regulations increase the amount disregarded under regulation 56 of the General Regulations to ensure that certain students may benefit from the increased disregard provided for charitable and voluntary payments (regulation 9).

Regulation 63 of the General Regulations is amended so that non-dependant deductions are not made in the case of boarders (regulation 10), the provisions in regulation 67 of the General Regulations under which the benefit period ends are amended (regulation 11) and provision is made for the review

of housing benefit and community charge benefit decisions by the same body by the amendment of regulation 81 of the General Regulations (regulation 12).

A number of minor amendments are made to provisions in Schedules 2 to 5 of the General Regulations relating to applicable amounts (regulation 14), the disregard of sums in the calculation of earnings (regulation 15), other income (regulation 16) and capital (regulation 17). These amendments are principally concerned with the introduction of community charge benefit and the amendment of the provision relating to income from boarders.

References to rates are amended by regulation 18 and Schedule 2, and transitional provision to enable claims for rate rebate after 1st April 1990 is made by regulation 19.