
STATUTORY INSTRUMENTS

1991 No. 234

SOCIAL SECURITY

**The Community Charge Benefits
(General) Amendment Regulations 1991**

<i>Made</i>	- - - -	<i>13th February 1991</i>
<i>Laid before Parliament</i>		<i>20th February 1991</i>
<i>Coming into force</i>		
<i>for the purposes of regulations</i>		<i>13th March 1991</i>
<i>for all other purposes</i>		<i>1st April 1991</i>

The Secretary of State for Social Security in exercise of powers conferred by sections 20(1)(d), 22(8) and (9), 31A(1) and (2), 31C, 31D, 51A(1)(a), (b), (i) and (j) 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 the 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⁾.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Charge Benefits (General) Amendment Regulations 1991 and shall come into force as follows—

- (a) for the purposes of regulations 1, 3 and 5 on 13th March 1991;
- (b) for all other purposes on 1st April 1991.

(1) 1986 c. 50; sections 20(1)(d), 31A(1) and (2), 31C, 31D and 51A(a)(b)(i) and (j) were inserted in the Social Security Act 1986 by Schedule 10 to the Local Government Finance Act 1988 (c. 41); section 31A(1) and (2) was amended by the Social Security Act 1990 (c. 27), Schedule 6, paragraph 20; and section 84(1) is cited because of the meaning assigned to the words “prescribed” and “regulations”.

(2) 1975 c. 14; subsection (3) was amended by the Social Security Act 1989 (c. 24), section 3(1) and Schedule 8, paragraph 10; sub-section (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; section 61(7) was amended by the Local Government Finance Act 1988 (c. 41), Schedule 10, paragraph 10.

(4) See section 61(1)(b) and (10) of the Social Security Act 1986. The Social Security Act 1989 (c. 24), Schedule 8, added a definition of “regulations” to section 61(10) of the Act of 1986.

(2) In these Regulations “the principal Regulations” means the Community Charge Benefits (General) Regulations 1989⁽⁵⁾.

Amendment to regulation 19 of the principal Regulations

2. In regulation 19(2) of the principal Regulations (sums to be disregarded in calculating the net earnings of employed earners) for the words “paragraphs 1 to 11” there shall be substituted the words “paragraphs 1 to 12”.

Amendment of regulation 23 of the principal Regulations

3. In regulation 23(3A) of the principal Regulations (calculation of income other than earnings)⁽⁶⁾ after the words “Education (Student Loans) Act 1990” there shall be inserted the words “or Article 3 of the Education (Student Loans) (Northern Ireland) Order 1990”⁽⁷⁾

Amendment of regulation 33A of the principal Regulations

4.—(1) Regulation 33A of the principal Regulations (diminishing notional capital rule) shall be amended in accordance with the following paragraphs.

(2) In paragraph (3)—

(a) in sub-paragraph (a) for the words “refers, and” there shall be substituted the word “refers.”;

(b) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) where the claimant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the benefit week to which paragraph (2) refers but for the application of regulation 43(1) of the Housing Benefit (General) Regulations 1987 (notional capital)⁽⁸⁾.”;

(c) after sub-paragraph (b) there shall be added the following sub-paragraphs—

“(c) where the claimant has also claimed family credit, the amount of family credit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the benefit week to which paragraph (2) refers but for the application of regulation 34(1) of the Family Credit (General) Regulations 1987 (notional capital)⁽⁹⁾;

(d) where the claimant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the benefit week to which paragraph (2) refers but for the application of regulation 51(1) of the Income Support (General) Regulations 1987 (notional capital)⁽¹⁰⁾.”.

(3) Paragraph (4) shall be amended in accordance with the following sub-paragraphs—

(a) for the words “the amount shall be equal” there shall be substituted the words “the amount of the reduction shall be equal”;

(b) in sub-paragraph (a) for the words “if the relevant week is a part-week” there shall be substituted the words “if the amount is in respect of a part-week”;

⁽⁵⁾ S.I.1989/1321; relevant amending instruments are S.I. 1990/834, 835, 1549 and 1773.

⁽⁶⁾ Paragraph (3A) was inserted in regulation 23 by S.I. 1990/1549.

⁽⁷⁾ S.I. 1990/1506 (N.I. 11).

⁽⁸⁾ S.I. 1987/1971; relevant amending instrument S.I. 1990/1775.

⁽⁹⁾ S.I. 1987/1973; the relevant amending instrument is S.I. 1990/1774.

⁽¹⁰⁾ S.I. 1987/1967; the relevant amending instrument is S.I. 1990/1776.

- (c) in sub-paragraph (b) the words “, within the meaning of regulation 2(1) of those Regulations (interpretation),” and the words “(if any)” shall be omitted;
- (d) after sub-paragraph (b) there shall be added the following sub-paragraphs—
 - “(c) if the claimant would, but for regulation 34(1) of the Family Credit (General) Regulations 1987, have been entitled to family credit or to an additional amount of that benefit in respect of the benefit week within the meaning of regulation 34A(8) (a) of those Regulations (diminishing notional capital rule)(11), which includes the last day of the relevant week, the amount which is equal to—
 - (i) in a case where no family credit is payable, the amount to, which he would have been entitled, or
 - (ii) in any other case, the amount equal to the additional amount of family credit to which he would have been entitled; and
 - (d) if the claimant would, but for regulation 51(1) of the Income Support (General) Regulations 1987, have been entitled to income support in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7.”.
- (4) In paragraph (8)—
 - (a) sub-paragraph (a) shall be amended by inserting the words “in paragraph (4)(a)” after the word “part-week”;
 - (b) after sub-paragraph (a) there shall be inserted the following sub-paragraph—
 - “(aa) “part-week” in paragraph (4)(d) means—
 - (i) a period of less than a week which is the whole period for which income support is payable; and
 - (ii) any other period of less than a week for which it is payable;”.

Amendment of regulation 42A of the principal Regulations

5. In regulation 42A of the principal Regulations (treatment of students loans)(12) after the words “Education (Student Loans) Act 1990” there shall be inserted the words “or Article 3 of the Education (Student Loans) (Northern Ireland) Order 1990”.

Amendment of regulation 60 of the principal Regulations

6. In regulation 60 of the principal Regulations (time and manner in which claims are to be made)

- (a) in paragraph (6), after sub-paragraph (b) there shall be inserted the following sub-paragraph—
 - “(bb) in a case where a claimant or his partner is a person on, income support and he or his partner changes his residence from the area of one appropriate authority to that of another, where the claim to the new authority is received at the designated office within

(11) S.I. 1987/1973; regulation 34A was inserted by S.I. 1990/1774.

(12) Regulation 42A was inserted in the principal Regulations by S.I. 1990/1549.

4 weeks of the date of the change, the date on which the change takes place;”;

- (b) in paragraph (17)(a) for the words “regulation 55(a)” there shall be substituted the words “regulation 55(a) and (b)”.

Substitution of regulation 76 of the principal Regulations

7. For regulation 76 of the principal Regulations (time and manner of granting community charge benefit in respect of personal community charges) there shall be substituted the following regulation—

“Time and manner of granting community charge benefit in respect of personal community charges in Scotland

76.—(1) Subject to regulations 80, 81 and 82 (withholding of benefit, payments on death and offsetting) and paragraphs (2) to (4), where a person is entitled to community charge benefit in respect of his liability for a personal community charge in pursuance of the 1987 Act, as it has effect for the relevant or any subsequent financial year, the appropriate authority shall discharge his entitlement to that benefit by reducing, so far as possible, the amount of the personal community charge for which he is liable or, where this is not possible, shall pay to him the amount of the benefit to which he is entitled, within 14 days of the receipt of the claim at the designated office or, if that is not practicable, as soon as possible thereafter.

(2) Subject to paragraph (3), where the amount of community charge benefit to which a person is entitled exceeds his liability for any personal community charge, the appropriate authority may, so far as possible, reduce the next and any subsequent payments which he is liable to make in respect of any personal community charge of the authority as it has effect for the relevant or any subsequent year by the amount of the benefit in respect of which his entitlement remains undischarged, until that entitlement is fully discharged.

(3) Where the amount of any personal community charge for which a person remains liable in respect of a relevant chargeable financial year is insufficient to enable his entitlement to community charge benefit to be discharged in that year in accordance with paragraph (2), upon the final payment of that charge becoming due the outstanding balance of any benefit remaining owing to that person shall be paid to him by the appropriate authority if the person concerned so requires.

(4) Where a person is no longer liable to an authority for personal community charges and he has paid the charge or charges in respect of which he is entitled to community charge benefit, the authority shall pay the outstanding benefit to him within 14 days of it being determined that benefit is due or, if that is not practicable, as soon as possible thereafter.

(5) The appropriate authority, in any case to which this regulation applies, shall notify the person to whom community charge benefit is due of the amount of that benefit and the amount of any reduction made in his liability for a personal community charge or in the liability of any partner of his.”.

Insertion of regulation 76A in the principal Regulations

8. After regulation 76 of the principal Regulations the following regulation shall be inserted—

“Time and manner of granting community charge benefit in respect of personal community charges in England and Wales

76A.—(1) Subject to regulations 80, 81 and 82 (withholding of benefit, payments on death and offsetting), where a person is entitled to community charge benefit in respect of his liability for a charging authority’s personal community charge, in pursuance of the 1988 Act, as it has effect in respect of the relevant or any subsequent chargeable financial year, the appropriate authority shall discharge his entitlement by reducing, so far as possible, the amount of that liability as provided in regulation 16(3) of the Community Charges (Administration and Enforcement) Regulations 1989 (demand notices personal community charges)(**13**) (the Administration Regulations) or, so far as such reductions are not possible, by making payments to him of the benefit to which he is entitled.

(2) The appropriate authority, in any case to which paragraph (1) applies, shall notify the person entitled to community charge benefit of the amount of that benefit and how his entitlement is to be discharged in pursuance of paragraph (1).

(3) When payments fall to be made in pursuance of paragraph (1) to a person—

(a) if the amount of the personal community charge for which he remains liable in respect of the relevant chargeable financial year, after any reduction to which paragraph (1) refers has been made, is insufficient to enable his entitlement to community charge benefit in respect thereof to be discharged in that year, upon the final instalment of that charge becoming due any outstanding benefit—

(i) shall be paid to that person if he so requires; or

(ii) in any other case shall (as the appropriate authority determines) either be repaid or credited against any subsequent liability of the person to make a payment in respect of the authority’s personal community charge as it has effect for any subsequent year;

(b) if a person has ceased to be subject to an appropriate authority’s personal community charge and has discharged the liability for that charge, the outstanding balance (if any) of the community charge benefit in respect thereof shall be paid within 14 days or, if that is not practicable, as soon as practicable thereafter;

(c) in any other case, the community charge benefit shall be paid within 14 days of the receipt of the claim at the designated office or, if that is not practicable, as soon as practicable thereafter.

(4) For the purposes of this regulation “instalments” means instalments of an appropriate authority’s personal community charge to which regulation 17 of the Administration Regulations refers (personal community charges payments).”.

Amendment of regulation 84 of the principal Regulations

9. In regulation 84(2) of the principal Regulations (excess benefits not recoverable where due to official error) for the words “at that time,” there shall be substituted the words “at the time the benefits were allowed or upon the receipt of any notice relating to the allowance of those benefits,”.

Amendment of Schedule 4 to the principal Regulations

10. In paragraph 15 of Schedule 4 to the principal Regulations (capital to be disregarded) for the words “paragraph 9” there shall be substituted the words “paragraph 11”.

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

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

13th February 1991

Nicholas Scott
Minister of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Community Charge Benefits (General) Regulations 1989 in the following respects—

- (a) they add to the sums which are to be disregarded in calculating a person's earnings (regulation 2);
- (b) they amend the manner in which a student's income is calculated (regulations 3 and 5);
- (c) they amend the conditions which specify how notional capital attributed to a claimant is to be reduced (regulation 4);
- (d) they extend the provisions governing the date on which a claim is made (regulation 6);
- (e) they make separate provision for Scotland and England and Wales with respect to the time and manner in which community charge benefit is to be awarded (regulations 7 and 8);
- (f) they amend the provisions specifying the circumstances in which excess benefits awarded in consequence of official errors are not recoverable (regulation 9);
- (g) they amend the circumstances in which the value of a right to receive income may be disregarded from a claimant's capital (regulation 10).