
STATUTORY INSTRUMENTS

1991 No. 235

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

The Housing Benefit (General) Amendment Regulations 1991

Made - - - - 13th February 1991

Laid before Parliament 20th February 1991

Coming into force

*for the purposes of
regulations 1, 5, 7 and 8 13th March 1991*

for all other purposes 1st April 1991

The Secretary of State for Social Security in exercise of powers conferred by sections 20(1)(c), (8) and (12)(h) and (i), 21(6)(b), 22(1), (8) and (9), 29(5), 30(2B), 51(1)(a) and (b) 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⁾ hereby makes the following Regulations:

Citation, commencement and interpretation

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

(a) for the purposes of regulations 1, 5, 7 and 8 on 13th March 1991;

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- (1) 1986 c. 50; sub-section (2B) was inserted in section 30 of the Act by the Social Security Act 1989 (c. 24), section 15(1) and 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 3(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; 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.

(b) for all other purposes on 1st April 1991.

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

Amendment of regulations 5, 51 and Schedule 2 of the principal Regulations

2.—(1) In regulation 5(9) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) and Schedule 2 paragraph 7(1)(b) (applicable amounts) of the principal Regulations⁽⁶⁾ for the words “the Training Commission” there shall be substituted the words “the Secretary of State”.

(2) In regulation 51(2)(b) (eligible rent) of the principal Regulations for the words “the Training Commission” there shall be substituted the words “the Secretary of State for Employment”.

Amendment of regulation 11 of the principal Regulations

3. In regulation 11 of the principal Regulations (restrictions on unreasonable payments)⁽⁷⁾ paragraph (2) shall be amended in the following respects—

- (a) for the words “Subject to paragraphs (3) to (4), where the appropriate authority considers” there shall be substituted the words “The appropriate authority shall consider”;
- (b) in sub-paragraphs (a) and (c) for the words “otherwise that” there shall be substituted the words “otherwise, whether”;
- (c) after sub-paragraph (c) for the words “the authority may” there shall be substituted the words “and, where it appears to the authority that the dwelling is larger than is reasonably required or that the rent is unreasonably high, the authority shall, subject to paragraphs (3) to (4),”;
- (d) the words “eligible rates or” shall be omitted.

Amendment of regulation 29 of the principal Regulations

4. In regulation 29(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 33 of the principal Regulations

5. In regulation 33(3A) of the principal Regulations (calculation of income other than earnings)⁽⁸⁾ 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⁽⁹⁾”.

Amendment of regulation 43A of the principal Regulations

6.—(1) Regulation 43A of the principal Regulations (diminishing notional capital rule)⁽¹⁰⁾ shall be amended in accordance with the following paragraphs.

(2) In paragraph (3)—

(5) S.I.1987/1971; relevant amending instruments are S.I. 1988/1444, 1843, 1971, 1989/566, 1017 and 1990/320, 546, 671, 1549 and 1775.

(6) Relevant amending provision is section 22(3) of the Employment Act 1988 (c. 19).

(7) Regulation 11 was amended by S.I. 1989/566 and 1990/546.

(8) Paragraph (3A) was inserted in regulation 33 by S.I. 1990/1549.

(9) S.I. 1990/1506 (N.I. 11).

(10) Regulation 43A was inserted in the principal Regulations by S.I. 1990/1775.

- (a) in sub-paragraph (a) for the words “refers, and” there shall be substituted the words “refers.”;
- (b) for sub-paragraph (b) there shall be substituted the following sub-paragraph—
 - “(b) where the claimant has also claimed community charge benefit, the amount of any community charge benefit or any additional amount of that benefit to which he would have been entitled in respect of the benefit week to which paragraph (2) refers but for the application of regulation 33(1) of the Community Charge Benefits (General) Regulations 1989 (notional capital)(**11**);”;
- (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 benefit week to which paragraph (2) refers but for the application of regulation 34(1) of the Family Credit (General) Regulations 1987 (notional capital)(**12**);
 - (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 benefit week to which paragraph (2) refers but for the application of regulation 51(1) of the Income Support (General) Regulations 1987 (notional capital)(**13**).”.
- (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 (b) the words “,within the meaning of regulation 2(1) of those Regulations (interpretation),” and the words “(if any)” shall be omitted;
 - (c) 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”;
 - (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)(**14**), 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.”.

(11) S.I. 1989/1321; the relevant amending instrument is S.I. 1990/1773.

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

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

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

(4) In paragraph (8)—

- (a) sub-paragraph (a) shall be amended by inserting the words “in paragraph (4)(b)” 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) to any other period of less than a week for which it is payable.”

Amendment of regulation 48A of the principal Regulations

7. In regulation 48A of the principal Regulations (full-time students to be treated as not liable to make payments in respect of a dwelling)(**15**)—

- (a) in sub-paragraph (2)(g) after head (iii) there shall be added the word “or” and the following head shall be inserted—
 - “(iv) a supplementary requirement has been determined under paragraph 15 of Schedule 7 to the Students Awards Regulations (Northern Ireland)(**16**), paragraph 15 of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1988(**17**), paragraph 12 of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1990(**18**) or paragraph 12 of Schedule 7 to the Students Awards (No. 2) Regulations (Northern Ireland) 1990(**19**) or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986(**20**),”;
- (b) in paragraph (3) the following words shall be added at the end—
 - “or any course to which Schedule 1 to the Education (Students Loans) Act 1990(**21**) refers”.

Amendment of regulation 57A of the principal Regulations

8. In regulation 57A(1) of the principal Regulations (treatment of student loans)(**22**) after the words “Education (Students Loans) Act 1990” there shall be inserted the words “or Article 3 of the Education (Student Loans) (Northern Ireland) Order 1990”.

Amendment of regulation 63 of the principal Regulations

9. In regulation 63(8) of the principal Regulations (non-dependant deductions) the word “single” shall be omitted.

Amendment of regulation 72 of the principal Regulations

10. In regulation 72 of the principal Regulations (time and manner in which claims are to be made)—

(15) Regulation 48A was inserted in the principal Regulations by S.I. [1990/1549](#) and the relevant amending instrument is S.I. [1990/1657](#).

(16) [S.R. 1987 No. 420](#), revoked by [S.R. 1988 No. 445](#).

(17) [S.R. 1988 No. 445](#), revoked by [S.R. 1990 No. 23](#).

(18) [S.R. 1990 No. 23](#), revoked by [S.R. 1990 No. 427](#).

(19) [S.R. 1990 No. 427](#).

(20) [S.I. 1986/594 \(N.I. 3\)](#).

(21) [1990 c. 6](#).

(22) Regulation 57A was inserted in the principal Regulations by S.I. [1990/1549](#).

- (a) in paragraph (5) 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 becomes liable for the first time to make payments in respect of the dwelling which he occupies as his home, where the claim is received at the designated office within 4 weeks of the claimant first becoming liable for such payments, the date he became liable for those payments;”;

- (b) in paragraph (14)(a) for the words “regulation 67(a)” there shall be substituted the words “regulation 67(a) and (b)”.

Amendment of regulation 99 of the principal Regulations

11. In regulation 99(2) of the principal Regulations (recoverable overpayments) after the words “receipt of the payment” there shall be inserted the words “or of any notice relating to that payment”.

Amendment of Schedule 1 to the principal Regulations

12. In Schedule 1 to the principal Regulations (ineligible service charges) after sub-paragraph 2(1) there shall be inserted the following sub-paragraph—

“(1A) Subject to paragraph 1A, where the appropriate authority considers that the amount of any service charge to which regulation 10(1)(e) (rent) applies and which is separately identified within other payments made by the occupier in respect of the dwelling is unreasonably low having regard to the service provided, it shall substitute a sum for the charge in question which it considers represents the value of the services concerned and the amount so substituted shall be ineligible to be met by housing benefit.”.

Amendment of Schedule 1A to the principal Regulations

13. In Schedule 1A to the principal Regulations (excluded tenancies)(**23**) in paragraph 2(3) at the end the following head shall be added—

“(e) in a case where the rent officer has made a determination for the purposes of Schedule 1 paragraph 2 to the Rent Officers (Additional Functions) Order 1990(**24**) or Schedule 1 paragraph 2 to the Rent Officers (Additional Functions) (Scotland) Order 1990(**25**) (size and rent determinations), but since the date of the application for that determination—

- (i) a child, who is a member of the household occupying the dwelling, has attained the age of 10 years; or
- (ii) a young person, who is a member of the household occupying that dwelling, has attained the age of 16 years.”.

Amendment of Schedule 5 to the principal Regulations

14. In Schedule 5 to the principal Regulations (capital to be disregarded) in paragraph 15 for the words “paragraph 9” there shall be substituted the words “paragraph 11”.

(23) Schedule 1A was inserted in the principal Regulations by S.I. [1990/546](#).

(24) S.I. [1990/428](#).

(25) S.I. [1990/396](#).

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

- (a) they replace references to the Training Commission by references to the Secretary of State and the Secretary of State for Employment (regulation 2);
- (b) they amend regulation 11 so as to require appropriate authorities to treat a claimant's rent as reduced when calculating his maximum housing benefit where it is considered that his dwelling is larger than is reasonably required or that his rent is unreasonably high (regulation 3);
- (c) they add to the sums which are to be disregarded in calculating a person's earnings (regulation 4);
- (d) they amend the manner in which a student's income is calculated (regulations 5 and 8);
- (e) they amend the conditions which specify how notional capital attributed to a claimant is to be reduced (regulation 6);
- (f) they extend the provisions under which deaf students may be eligible for housing benefit to include students in receipt of certain educational awards from Northern Ireland and the definition of a course of higher education with respect to full-time students under 19 (regulation 7);
- (g) they provide that no deduction shall be made in calculating the amount of housing benefit where a non-dependent aged less than 25 who is in receipt of income support resides with the claimant (regulation 9);
- (h) they extend the provisions governing the date on which a claim is made (regulation 10);
- (i) they amend the provision specifying the circumstances in which overpayments of benefit on account of official errors are not recoverable (regulation 11);
- (j) they extend the circumstances in which an appropriate authority may substitute its own estimate of the cost of charges which are ineligible for housing benefit where it considers that the charges made were unreasonably low (regulation 12);
- (k) they amend the conditions governing whether a tenancy is excluded from those to be referred to a Rent Officer for his determination as to the amount of rent, or the size of a dwelling or the cost of services, so as to enable a reference to be made in certain cases where a child who is a member of the household attains the age of 10 or 16 (regulation 13);
- (l) they amend the circumstances in which the value of a right to receive income may be disregarded from a person's capital (regulation 14).