
STATUTORY INSTRUMENTS

1995 No. 560

SOCIAL SECURITY

**The Housing Benefit and Council Tax Benefit
(Miscellaneous Amendments) Regulations 1995**

Made - - - - 6th March 1995
Laid before Parliament 10th March 1995
Coming into force in accordance with regulation 1(1)

The Secretary of State for Social Security, in exercise of powers conferred upon him by sections 123(1)(d) and (e), 135(1), 136(1) and (3) to (5), 137(1) and (2)(d), (h), (i) and (l) and 175(1) and (3) to (6) of the Social Security Contributions and Benefits Act 1992(1) and sections 5(1)(k) and (o), 6(1)(l) and (o) of the Social Security Administration Act 1992(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 in respect of 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 and Council Tax Benefit (Miscellaneous Amendments) Regulations 1995 and shall come into force—

- (a) for the purposes of regulations 1, 11 and 14 to 23, on 1st April 1995; and
- (b) for the purposes of regulations 2 to 10, 12 and 13—
 - (i) 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, on 1st April 1995, and
 - (ii) in any other case, on 3rd April 1995.

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

“the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992(5);

(1) 1992 c. 4; sections 123 (e) and 131 of the Social Security Contributions and Benefits Act 1992 were substituted by the Local Government and Finance Act 1992 (c. 14), section 103 and Schedule 9, paragraphs 1(1) and 4. Section 137(1) which is an interpretation provision is cited because of the meaning assigned to the word “prescribed”.

(2) 1992 c. 5.

(3) See the Social Security Administration Act 1992 (c. 5), section 176(1).

(4) See the Social Security Administration Act 1992 (c. 5), section 172(1).

(5) S.I. 1992/1814, to which there are amendments not relevant to this regulation.

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

Amendment of regulation 2 of the Housing Benefit Regulations

2. In regulation 2(1) of the Housing Benefit Regulations (interpretation), after the definition of “unmarried couple” there shall be inserted—

““voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;”.

Amendment of regulation 3 of the Housing Benefit Regulations

3. In regulation 3(2)(f) of the Housing Benefit Regulations (definition of non-dependant), for the words “voluntary body (other than a public or local authority)” there shall be substituted the words “voluntary organisation”.

Amendment of regulation 4 of the Housing Benefit Regulations

4. In regulation 4 of the Housing Benefit Regulations(7) (remunerative work)—

(a) in paragraph (2), at the beginning there shall be inserted the words “Subject to paragraph (2A),”; and

(b) after paragraph (2), there shall be inserted the following—

“(2A) Where, for the purposes of paragraph (2)(a), a person’s recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work shall be disregarded in establishing the average hours for which he is engaged in work.”.

Amendment of regulation 5 of the Housing Benefit Regulations

5. In regulation 5 of the Housing Benefit Regulations (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—

(a) after paragraph (8) there shall be inserted the following new paragraph—

“(8A) Where a person is detained in custody pending sentence upon conviction or under a sentence imposed by a court, other than a person who is detained under the Mental Health Act 1983(8) or the Mental Health (Scotland) Act 1984(9), he shall not, for any day that he is on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952(10) or the Prisons (Scotland) Act 1989(11), be treated for the purposes of this regulation as if his detention has ceased.”;

(b) in paragraph (9), in sub-paragraph (a) of the definition of “residential accommodation” the words “and 26” shall be omitted.

(6) S.I. 1987/1971, to which there are amendments not relevant to this regulation.

(7) Regulation 4 was amended by S.I. 1991/1599 and 1993/2118.

(8) 1983 c. 20.

(9) 1984 c. 36.

(10) 1952 c. 52.

(11) 1989 c. 45.

Amendment of regulation 12A of the Housing Benefit Regulations

6. In regulation 12A(8)(b)(iii) of the Housing Benefit Regulations(12) (requirement to refer to rent officers), for the words “voluntary body” there shall be substituted the words “voluntary organisation”.

Amendment of regulation 21A of the Housing Benefit Regulations

7. In regulation 21A(2) of the Housing Benefit Regulations(13) (treatment of child care charges), in the definition of “relevant child care charges”—

- (a) after the word “education” there shall be inserted the words “or charges paid by a claimant to a partner or by a partner to a claimant in respect of any child for whom either or any of them is responsible in accordance with regulation 14 (circumstances in which a person is to be treated as responsible or not responsible for another)”; and
- (b) at the end of sub-paragraph (c) there shall be added the following—
 - “; or
 - (d) in schools or establishments which are exempted from registration under section 71 of the Children Act 1989 by virtue of section 71(16) of, and paragraph 3 or 4 of Schedule 9 to, that Act.”.

Amendment of regulation 35 of the Housing Benefit Regulations

8. In regulation 35(5)(14) of the Housing Benefit Regulations (notional income)—

- (a) for the words “voluntary body” there shall be substituted the words “voluntary organisation”; and
- (b) after the word “satisfied” there shall be inserted the words “in any of those cases”.

Amendment of regulation 67 of the Housing Benefit Regulations

9. In regulation 67(a) of the Housing Benefit Regulations(15) (date on which benefit period is to end), for the words from “cessation” to “effect” there shall be substituted the words “change of circumstances actually occurs”.

Amendment of regulation 95 of the Housing Benefit Regulations

10. In regulation 95 of the Housing Benefit Regulations(16) (withholding of benefit)—

- (a) after paragraph (4) there shall be inserted the following new paragraph—
 - “(4A) Where an authority has evidence (other than such evidence as has been considered by an adjudication officer) which raises a reasonable doubt as to the amount of a person’s income or capital for the purposes of his entitlement to income support and as a consequence it gives rise to a question as to his entitlement to housing benefit, the authority may withhold payment of housing benefit in whole or in part pending the determination of the income support question by an adjudication officer and pending the authority’s review under regulation 79.”; and
- (b) in paragraph (6), after the words “paragraph (4)” there shall be inserted the words “, (4A)”.

(12) Regulation 12A was inserted by S.I. 1990/546 and further amended by S.I. 1993/317.

(13) Regulation 21A was inserted by S.I. 1994/1924.

(14) Paragraph (5) of regulation 35 was amended by S.I. 1991/1599.

(15) Paragraphs (a) to (c) were substituted by S.I. 1990/546.

(16) Regulation 95 was amended by S.I. 1989/566 and S.I. 1992/2148.

Amendment of Schedule 1A to the Housing Benefit Regulations

11. In paragraph 2(3) of Schedule 1A to the Housing Benefit Regulations(**17**) (excluded tenancies)—

(a) in head (c)(i)—

(i) for the words “paragraph 1(2) or 2(2) of Schedule 1 to the Order” substitute the words “paragraph 1(2), 2(2) or 2A(3) of Schedule 1 to the Rent Officers (Additional Functions) Order 1990(**18**)”, and

(ii) for the words “paragraph 1(2) or 2(2) of Schedule 1 to the Scottish Order” there shall be substituted the words “paragraph 1(2), 2(2) or 2A(3) of Schedule 1 to the Rent Officers (Additional Functions) (Scotland) Order 1990(**19**)”; and

(b) after head (e) there shall be added the following—

“; or

(iii) there is a change in the composition of the household occupying the dwelling.”.

Amendment of Schedule 2 to the Housing Benefit Regulations

12. In paragraph 12(1)(a)(iii) of Schedule 2 to the Housing Benefit Regulations(**20**) (applicable amounts), for the words from “section” to “1975” there shall be substituted the words “section 113(2) of the Contributions and Benefits Act 1992(**21**) or otherwise abated as a consequence of the claimant or his partner becoming a patient within the meaning of regulation 18(2) (patients).”.

Amendment of Schedule 4 to the Housing Benefit Regulations

13. In paragraph 2(a) of Schedule 4 to the Housing Benefit Regulations (sums to be disregarded in the calculation of income other than earnings), for the words “voluntary body” there shall be substituted the words “voluntary organisation”.

Amendment of regulation 2 of the Council Tax Benefit Regulations

14. In regulation 2(1) of the Council Tax Benefit Regulations (interpretation), after the definition of “unmarried couple” there shall be inserted—

““voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;”.

Amendment of regulation 3 of the Council Tax Benefit Regulations

15. In regulation 3(2)(f) of the Council Tax Benefit Regulations, for the words “voluntary body (other than a public or local authority)” there shall be substituted the words “voluntary organisation”.

Amendment of regulation 4 of the Council Tax Benefit Regulations

16. In regulation 4 of the Council Tax Benefit Regulations(**22**) (remunerative work)—

(a) in paragraph (2), at the beginning there shall be inserted the words “Subject to paragraph (2A),”; and

(17) Schedule 1A was inserted by S.I. 1990/546 and paragraph 2 was further amended by S.I. 1991/235, 1993/317 and 1249.

(18) S.I. 1990/428; the relevant amending instrument is S.I. 1994/568.

(19) S.I. 1990/396 (S.45); the relevant amending instrument is S.I. 1994/582 (S.25).

(20) Sub-paragraph (1)(a)(iii) of paragraph 12 was amended by S.I. 1991/2742.

(21) 1992 c. 4.

(22) Regulation 4 was amended by S.I. 1993/2118.

(b) after paragraph (2), there shall be inserted the following—

“(2A) Where, for the purposes of paragraph (2)(a), a person’s recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work shall be disregarded in establishing the average hours for which he is engaged in work.”.

Insertion of regulation 4B of the Council Tax Benefit Regulations

17. After regulation 4A of the Council Tax Benefit Regulations, there shall be inserted the following new regulation—

“Circumstances in which a person is or is not to be treated as occupying a dwelling as his home

4B. Where a person is detained in custody pending sentence upon conviction or under a sentence imposed by a court, other than a person who is detained under the Mental Health Act 1983(23) or the Mental Health (Scotland) Act 1984(24), he shall not, for any day that he is on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952(25) or the Prisons (Scotland) Act 1989(26), be treated for the purposes of this regulation as if his detention has ceased.”.

Amendment of regulation 13A of the Council Tax Benefit Regulations

18. In regulation 13A(2) of the Council Tax Benefit Regulations(27) (treatment of child care charges), in the definition of “relevant child care charges”—

- (a) after the word “education” there shall be inserted the words “or charges paid by a claimant to a partner or by a partner to a claimant in respect of any child for whom either or any of them is responsible in accordance with regulation 6 (circumstances in which a person is to be treated as responsible or not responsible for another)”;
- (b) at the end of sub-paragraph (c) there shall be added the following—
 - “; or
 - (d) in schools or establishments which are exempted from registration under section 71 of the Children Act 1989 by virtue of section 71(16) of, and paragraph 3 or 4 of Schedule 9 to, that Act.”.

Amendment of regulation 26 of the Council Tax Benefit Regulations

19. In regulation 26(5) of the Council Tax Benefit Regulations (notional income)—

- (a) for the words “voluntary body” there shall be substituted the words “voluntary organisation”; and
- (b) after the word “satisfied” there shall be inserted the words “in any of those cases”.

(23) 1983 c. 20.

(24) 1984 c. 36.

(25) 1952 c. 52.

(26) 1989 c. 45.

(27) Regulation 13A was inserted by S.I. 1994/1924.

Amendment of regulation 58 of the Council Tax Benefit Regulations

20. In regulation 58(a) of the Council Tax Benefit Regulations (date on which benefit period is to end), for the words from “cessation” to “effect” there shall be substituted the words “change of circumstances actually occurs”.

Amendment of regulation 80 of the Council Tax Benefit Regulations

21. In regulation 80 of the Council Tax Benefit Regulations (withholding of benefit)—

(a) after paragraph (2) there shall be inserted the following new paragraph—

“(2A) Where an authority has evidence (other than such evidence as has been considered by an adjudication officer) which raises a reasonable doubt as to the amount of a person’s income or capital for the purposes of his entitlement to income support and as a consequence it gives rise to a question as to his entitlement to council tax benefit, the authority may withhold payment of council tax benefit in whole or in part pending the determination of the income support question by an adjudication officer and pending the authority’s review under regulation 69.”; and

(b) in paragraph (3), for the words “or (2)” there shall be substituted the words “, (2) or (2A)”.

Amendment of Schedule 1 to the Council Tax Benefit Regulations

22. In paragraph 13(1)(a)(iii) of Schedule 1 to the Council Tax Benefit Regulations(28) (applicable amounts), after the words “Act 1992” there shall be inserted the words “or otherwise abated as a consequence of the claimant or his partner becoming a patient within the meaning of regulation 10(2) (patients).”.

Amendment of Schedule 4 to the Council Tax Benefit Regulations

23. In paragraph 2(a) of Schedule 4 to the Council Tax Benefit Regulations (sums to be disregarded in the calculation of income other than earnings) for the words “voluntary body” there shall be substituted the words “voluntary organisation”.

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

6th March 1995

Roger Evans
Parliamentary Under-Secretary of State,
Department of Social Security

(28) Sub-paragraph (1)(a)(iii) of paragraph 13 was amended by S.I. 1991/2742.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Housing Benefit (General) Regulations 1987 (S.I.1987/1971) (“the Housing Benefit Regulations”) and the Council Tax Benefit (General) Regulations 1992 (S.I.1992/1814) (“the Council Tax Benefit Regulations”).

As respects the Housing Benefit Regulations and the Council Tax Benefit Regulations, these Regulations—

- (a) insert the definition of voluntary organisation and additionally substitute all references to voluntary bodies with voluntary organisations (regulations 2, 3, 6, 8, 13, 14, 15, 19 and 23);
- (b) make provision regarding recognisable cycle of work in respect of school and other ancillary workers (regulations 4 and 16);
- (c) make provision regarding prisoners on temporary release (regulations 5 and 17);
- (d) expand the definition of child care charges (regulations 7 and 18);
- (e) amend the calculation of a claimant’s notional income where he is working for a charitable or voluntary organisation or is a volunteer (regulations 8(b) and 19(b));
- (f) make provision concerning the date housing benefit or council tax benefit ceases in relation to income support (regulations 9 and 20);
- (g) make provision regarding withholding of benefit (regulations 10 and 21);
- (h) make provision concerning abatement of attendance allowance (regulations 12 and 22).

As respects Housing Benefit Regulations only, these Regulations include excessive high rents provisions and require the authority to refer a dwelling for redetermination by the rent officer where there has been a change in the composition of the household (regulation 11).

These Regulations do not impose a charge on business.