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STATUTORY INSTRUMENTS

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**1995 No. 838**

**The Housing Renovation etc. Grants (Reduction of Grant) (Amendment) Regulations 1995**

**Amendments**

- 2.—(1) The principal Regulations shall be amended in accordance with this Regulation.
- (2) In regulation 2(1) (interpretation)—
- (a) at the end of the definition of “employed earner”, insert “and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay<sup>(1)</sup>”;
- (b) insert in the appropriate places—
- ““charity” has the meaning given by section 96 of the Charities Act 1993<sup>(2)</sup>, and “charitable body” shall be construed accordingly;”;
- ““incapacity benefit” means long-term incapacity benefit or short-term incapacity benefit under Part II of the 1992 Act<sup>(3)</sup>”;
- ““long-term incapacity benefit” means long-term incapacity benefit under Part II of the 1992 Act;”;
- ““short-term incapacity benefit” means short-term incapacity benefit under Part II of the 1992 Act;”;
- ““statutory maternity pay” means statutory maternity pay under Part XII of the 1992 Act; “statutory sick pay” means statutory sick pay under Part XI of the 1992 Act;”;
- ““voluntary organisation” has the meaning given by section 105(1) of the Children Act 1989<sup>(4)</sup>”.
- (3) In regulation 4(2)(f) (definition of non-dependant) for “voluntary body (other than a public or local authority)”, and in regulation 28(4) (notional income) and paragraph 2 of Schedule 3 (sums to be disregarded in determining income other than earnings), for “voluntary body” substitute “voluntary organisation”.
- (4) In regulation 10 (reduction in amount of grant)—
- (a) in sub-paragraph 10(1)(a), for “17.76” substitute “17.23”;
- (b) in sub-paragraph 10(1)(b), for “35.52” substitute “34.46”;
- (c) in sub-paragraph 10(1)(c), for “142.06” substitute “137.84”;
- (d) in sub-paragraph 10(1)(d), for “355.15” substitute “344.61”;
- (e) in sub-paragraph 10(2)(a), for “10.51” substitute “10.34”;

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(1) See the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), Parts XI and XII.

(2) 1993 c. 10.

(3) Part II is amended by sections 1–3 of, and paragraphs 2–7 of Part I of Schedule 1 to, the Social Security (Incapacity for Work) Act 1994 (c. 18).

(4) 1989 c. 41.

- (f) in sub-paragraph 10(2)(b), for “21.02” substitute “20.69”;
- (g) in sub-paragraph 10(2)(c), for “84.09” substitute “82.76”; and
- (h) in sub-paragraph 10(2)(d), for “210.23” substitute “206.89”.

(5) In regulation 11(2)(a) (successive applications), after “by virtue of regulation 10 and this regulation” insert “or regulations 10 and 11 of the Housing Renovation etc. Grants (Reduction of Grant) Regulations 1990<sup>(5)</sup>”.

(6) In regulation 16 (determination of income on a weekly basis)—

(a) at the end of paragraph (1) add—

“,and

by then deducting the average weekly relevant child care charge, determined in accordance with regulation 16A (treatment of child care charges), up to a maximum deduction in respect of the relevant person’s family of £40 per week.”;

and

(b) in paragraph (2), after “28 (notional income)” insert “, 40 (determination of grant income)”.

(7) After regulation 16 (determination of income on a weekly basis) insert—

**“Treatment of child care charges**

**16A.**—(1) This regulation applies where a relevant person has incurred relevant child care charges and—

- (a) is a lone parent and is engaged in remunerative work;
- (b) is a member of a couple both of whom are engaged in remunerative work; or
- (c) is a member of a couple where one member is engaged in remunerative work and the other member is incapacitated.

(2) Relevant child care charges shall be determined over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to information as to the amount of the charge provided by the child minder or person providing the care.

(3) For the purposes of paragraph (1)(c) the other member of a couple is incapacitated where—

- (a) the relevant person’s applicable amount includes—
  - (i) a disability premium; or
  - (ii) a higher pensioner premium by virtue of the satisfaction of paragraph 10(2)(b) of Schedule 1;
 on account of the other member’s incapacity;
- (b) the relevant person’s applicable amount would include a disability premium or a higher pensioner premium on account of the other member’s incapacity, but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations<sup>(6)</sup> made under section 171E of the 1992 Act<sup>(7)</sup> (incapacity for work: disqualification, etc.);
- (c) the relevant person (within the meaning of regulation 3) is or is treated as incapable of work, and has been so incapable or has been so treated as incapable of work in

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<sup>(5)</sup> S.I.1990/1189.

<sup>(6)</sup> S.I. 1995/311.

<sup>(7)</sup> Section 171E is inserted into the 1992 Act by section 6(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18).

accordance with the provisions of, and regulations made under, Part XIIA of the 1992 Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;

- (d) there is payable in respect of him one or more of the following—
- (i) long-term incapacity benefit, or short-term incapacity benefit at the higher rate, under Schedule 4 to the 1992 Act<sup>(8)</sup> (rates of benefits, etc.);
  - (ii) attendance allowance under section 64 of that Act (entitlement to an attendance allowance);
  - (iii) severe disablement allowance under section 68 of that Act<sup>(9)</sup> (severe disablement allowance: entitlement and rate);
  - (iv) disability living allowance under section 71 of that Act (disability living allowance);
  - (v) increase of disablement pension under section 104 of that Act (increase where constant attendance needed);
  - (vi) a pension increase under a war pension scheme or an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under paragraph (ii), (iv) or (v) above;
- (e) a pension or allowance to which paragraph (ii), (iv), (v) or (vi) of sub-paragraph (d) refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient within the meaning of regulation 18(2) of the Housing Benefit (General) Regulations 1987<sup>(10)</sup> (patients);
- (f) sub-paragraph (d) or (e) would apply to him if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding enactment having effect in Northern Ireland<sup>(11)</sup>; or
- (g) he has an invalid carriage or other vehicle provided to him by the Secretary of State under section 5(2)(a) of and Schedule 2 to the National Health Service Act 1977<sup>(12)</sup> (provision of vehicles for those suffering disability) or under section 46 of the National Health Service (Scotland) Act 1978<sup>(13)</sup> (provision of vehicles for persons suffering from physical defect or disability) or provided by the Department of Health and Social Services for Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(14)</sup> (provision of vehicles for persons suffering from physical defect or disability).

(4) In this regulation—

“Crown property” means property held by Her Majesty in right of the Crown or by a government department or which is held in trust for Her Majesty for the purposes of a government department, except (in the case of an interest held by Her Majesty in right of the Crown) where the interest is under the management of the Crown Estate Commissioners;

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<sup>(8)</sup> Paragraph 2 of Part I is substituted and paragraph 2A inserted in that Part by section 2(2) of the Social Security (Incapacity for Work) Act 1994.

<sup>(9)</sup> Section 68 is amended by section 9 of, and by paragraph 18 of Schedule 1 and by Schedule 2 to, the Social Security (Incapacity for Work) Act 1994.

<sup>(10)</sup> S.I. 1987/1971.

<sup>(11)</sup> S.R. (N.I.) 1994 No. 274.

<sup>(12)</sup> 1977 c. 49; section 5(2) was amended and subsection (2A) inserted by the Public Health Laboratory Service Act 1979 (c. 23), section 1, and subsection (2B) was inserted by section 9 of the Health and Social Security Act 1984 (c. 48).

<sup>(13)</sup> 1978 c. 29.

<sup>(14)</sup> S.I. 1972/1265 (N.I. 14).

“local authority” means, in relation to England and Wales, the council of a county or district, a metropolitan district, a London Borough, the Common Council of the City of London or the Council of the Isles of Scilly or, in relation to Scotland, a regional, islands or district council;

“relevant child care charges” means the charges paid by the relevant person for care provided for any child of the relevant person’s family who is under the age of 11 years, other than charges paid in respect of the child’s compulsory education, where the care is provided—

- (a) by persons registered under section 71 of the Children Act 1989<sup>(15)</sup> (registration of child minders and persons providing day care for young children);
- (b) for children aged 8 and over but under 11, out of school hours, by a school on school premises or by a local authority; or
- (c) by a child care scheme operating on Crown property where registration under section 71 of the Children Act 1989 is not required;

and shall be determined on a weekly basis in accordance with paragraph (2).”

(8) In regulation 18 (average weekly earnings of self-employed earners), for the words “over such period” to the end substitute “over the period of 52 weeks immediately preceding the application or, where his earnings from such employment fluctuate, over such other lesser period immediately preceding the application as may enable his average weekly earnings to be determined more accurately.”

(9) For regulation 19 (average weekly income other than earnings), for the words “such period not exceeding” to the end substitute “the period of 52 weeks immediately preceding the application or, where such income fluctuates, over such other lesser period immediately preceding the application as may enable his average weekly income to be determined more accurately.”

(10) In regulation 22(3) (determination of net earnings of employed earners), omit “and” at the end of sub-paragraph (a) and substitute for sub-paragraph (b)—

- “(b) one-half of any sum paid by the relevant person by way of a contribution towards an occupational pension scheme;
- (c) one-half of the amount calculated in accordance with paragraph (4) in respect of any qualifying contribution payable by the relevant person; and
- (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the 1992 Act.

(4) The amount in respect of any qualifying contribution shall be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying contribution shall be determined—

- (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;
- (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.

(5) In this regulation “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.”

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(15) 1989 c. 41.

(11) For regulation 23(b) (earnings of self-employed earners) substitute—

“(b) shall not include any payment to which paragraph 24 or 25 of Schedule 3 refers (payments in respect of a person accommodated with the relevant person under arrangements made by a local authority or voluntary organisation and payments made to the relevant person by a health authority, local authority or voluntary organisation in respect of persons temporarily in the relevant person’s care).”.

(12) In regulation 24(7) (determination of net profit of self-employed earners), for “The local housing authority shall not make a deduction” substitute “No deduction shall be made”.

(13) In regulations 25(1) (deduction of tax and contributions for self-employed earners) and 28(7)(a) (notional income)—

- (a) for “and the basic rate” substitute “and the basic rate or the basic rate and higher rate”; and
- (b) for “if appropriate, the basic rate” substitute “if appropriate, the basic rate and the higher rate”.

(14) For regulation 27 (capital treated as income), substitute—

**“Annuity treated as income**

**27.** Any payment received under an annuity shall be treated as income.”.

(15) In regulation 28(4) (notional income)—

- (a) for “the local housing authority shall treat the relevant person” substitute “the relevant person shall be treated”; and
- (b) for “authority” substitute “the local housing authority”.

(16) In regulation 40(2)(g) (determination of grant income)—

- (a) after “special equipment” insert “referred to in sub-paragraph (b)”; and
- (b) for “£273” substitute “£276”.

(17) In regulation 40(3) (determination of grant income), for “Regulations 1993” substitute “(No. 2) Regulations 1993 or a corresponding provision governing the award in question”(16).

(18) In regulation 44 (disregard of contribution), for the words “a contribution to the student’s grant” to the end substitute “the amount of the student’s grant, an amount equal to the contribution (whether or not the contribution is paid) shall be disregarded in determining the income of the other.”

(19) In Schedule 1 (applicable amounts)—

(a) for paragraph 1 substitute—

“1. The amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes of regulations 12(a) and 13(a) and (b)—

<i>(1)</i> <i>Person or couple</i>	<i>(2)</i> <i>Amount</i>
(1) Single person aged—	(a) (1) £36.80;
(a) less than 25	(b) £46.50.
(b) not less than 25	
(2) Lone parent aged—	(a) (2) £36.80;

(16) S.I. 1993/2914, amended by S.I. 1994/1606; recent past corresponding provisions are in S.I. 1993/1850 (amended by S.I. 1994/1606 and 1993/3183), 1992/1270, 1991/1838 and 1990/1628.

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<i>(1)</i> <i>Person or couple</i>	<i>(2)</i> <i>Amount</i>
(a) less than 18	(b) £46.50.
(b) not less than 18	
(3) Couple—	(a) (3) £55.55;
(a) where both members are aged less than 18	(b) £73.00.”;
(b) where at least one member is aged not less than 18	
(b) for paragraph 2 substitute—	

“2. The amounts specified in column (2) below in respect of each person specified in column (1) shall be the amounts specified for the purposes of regulations 12(b) and 13(c)—

<i>(1)</i> <i>Child or Young Person</i>	<i>(2)</i> <i>Amount</i>
Person aged—	
(a) less than 11	(a) £15.95;
(b) not less than 11 but less than 16	(b) £23.40;
(c) not less than 16 but less than 18	(c) £28.00;
(d) not less than 18	(d) £36.80.”;
(c) in paragraph 3, for “£10.05” substitute “£10.25”;	
(d) in paragraph 12(1)(a)(i)—	
(i) for “an invalidity pension under section 33” substitute “long-term incapacity benefit under Part II”;	
(ii) for “section 68” substitute “Part II”; and	
(iii) for “of invalidity pension” substitute “of long-term incapacity benefit”;	
(e) in paragraph 12(1)(a)(ii)—	
(i) for “invalidity pension under section 33” substitute “long-term incapacity benefit under Part II”; and	
(ii) for “if the invalidity pension” substitute “if the long-term incapacity benefit”;	
(f) for paragraph 12(1)(b) substitute—	
“(b) the relevant person—	
(i) is incapable of work in accordance with the provisions of, and regulations made under, Part XIIA of the 1992 Act(17) (incapacity for work), and	
(ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—	
(aa) in the case of a relevant person who is terminally ill within the meaning of section 30B(4) of the 1992 Act(18), 196 days; and	
(bb) in any other case, 364 days.”;	

(17) Part XIIA is inserted by sections 5 and 6(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18).

(18) Section 30B is inserted by section 1(1) of the Social Security (Incapacity for Work) Act 1994.

- (g) in paragraph 12(3), for “for the purposes of the provisions specified in that provision” substitute “or to be incapable of work”;
- (h) for paragraph 12(5) substitute—
  - “(5) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods shall be treated as one continuous period.
  - (6) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the 1992 Act (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.”;
- (i) after paragraph 13(4) insert—
  - “(5) For the purposes of sub-paragraph (2)(a)(iii) and (b), no account shall be taken of an award of invalid care allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is made.”; and
- (j) for Part IV substitute—

## “PART IV

### AMOUNTS OF PREMIUMS SPECIFIED IN PART III

<i>Premium</i>	<i>Amount</i>
<b>18.</b> —	(1) £11.50.
(1) Lone parent premium	
(2) Pensioner premium for persons aged under 75—	(2)
(a) where the relevant person satisfies the condition in paragraph 8(a)	(a) £18.60;
(b) where the relevant person satisfies the condition in paragraph 8(b)	(b) £28.05.
(3) Pensioner premium for persons aged 75 and over—	(3)
(a) where the relevant person satisfies the condition in paragraph 9(a)	(a) £20.70;
(b) where the relevant person satisfies the condition in paragraph 9(b)	(b) £30.95.
(4) Higher pensioner premium—	(4)
(a) where the relevant person satisfies the condition in paragraph 10(1)(a) or (b)	(a) £25.15;

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<i>Premium</i>	<i>Amount</i>
(b) where the relevant person satisfies the condition in paragraph 10(2)(a) or (b)	(b) £35.95.
(5) Disability premium—	(5)
(a) where the relevant person satisfies the condition in paragraph 11(a)	(a) £19.80;
(b) where the relevant person satisfies the condition in paragraph 11(b)	(b) £28.30.
(6) Severe disability premium—	(6)
(a) where the relevant person satisfies the condition in paragraph 13(2)(a)	(a) £35.05;
(b) where the relevant person satisfies the condition in paragraph 13(2)(b)—	(b)
(i) in a case where there is someone in receipt of an invalid care allowance	(i) £35.05;
(ii) in a case where there is no one in receipt of such an allowance	(ii) £70.10.
(7) Disabled child premium	(7) £19.80 for each child or young person for whom the condition specified in paragraph 14 is satisfied.
(8) Carer premium	(8) £12.60 for each person who satisfies the condition specified in paragraph 15.”.
(20) In Schedule 3 (sums to be disregarded in the determination of income other than earnings)—	
(a) in paragraph 14, for “Subject to paragraph 33,” substitute “Subject to paragraph 32,”;	
(b) for paragraph 16(i) substitute—	
“(i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988 <sup>(19)</sup> (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;”;	
(c) in paragraph 41(b), for “19th” substitute “21st”; and	
(d) after paragraph 51 insert—	
“52. Any supplementary pension under article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows) <sup>(20)</sup> .	
53. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows) <sup>(21)</sup> , the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.	
54.—(1) Any payment which is—	

<sup>(19)</sup> 1988 c. 1; section 369(1A) was inserted by section 81(3) of the Finance Act 1994 (c. 9).

<sup>(20)</sup> S.I. 1983/883; relevant amending instruments are S.I. 1993/598, 1994/1906.

<sup>(21)</sup> S.I. 1983/686; relevant amending instruments are S.I. 1994/715, 1994/2021.



- (a) made under any of the Dispensing Instruments to a widow of a person—
  - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
  - (ii) whose service in such capacity terminated before 31st March 1973; and
- (b) equal to the amount specified in article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows).

(2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances)(22).”.

(21) In Schedule 4 (capital to be disregarded)—

- (a) at the end of paragraph 37 insert “or of any amount which is disregarded under paragraph 52, 53 or 54 of that Schedule”; and
- (b) after paragraph 44 add—

“45. Any sum of capital administered on behalf of a person under the age of 18 by the High Court under the provisions of Order 80 of the Rules of the Supreme Court 1965(23), the county court under Order 10 of the County Court Rules 1981(24), or the Court of Protection, where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents.

46. Any sum of capital administered on behalf of a person under the age of 18 in accordance with an order made under Rule 43.15 of the Act of Sederunt (Rules of the Court of Session 1994) 1994(25) or under Rule 131 of the Act of Sederunt (Rules of the Court, consolidation and amendment) 1965(26), or under Rule 36.14 of the Ordinary Cause Rules 1993(27), or under Rule 128 of the Ordinary Cause Rules(28) where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents.”.

(22) Copies of the Dispensing Instruments are available from the Department of Social Security, A1, 6th Floor, Adelphi, 1–11 John Adam Street, London WC2N 6HT.

(23) S.I. 1965/1776; for Order 80 as currently in force *see* “The Supreme Court Practice 1995”, ISBN 0 421 49480 8; and “The Supreme Court Practice 1995: First Cumulative Supplement to the 1995 Edition”, ISBN 0 421 49490 5.

(24) S.I. 1981/1687; for Order 10 as currently in force *see* “The County Court Practice 1994”, ISBN 0 406 03674 8; or “The Supreme Court Practice 1995: County Court Rules”, ISBN 0 421 49500 6.

(25) S.I. 1994/1443.

(26) S.I. 1965/321.

(27) First Schedule to the Sheriff Courts (Scotland) Act 1907 (c. 51) as substituted in respect of causes commenced on or after 1st January 1994 by S.I. 1993/1956.

(28) First Schedule to the Sheriff Courts (Scotland) Act 1907 as substituted by S.I. 1983/747.