
STATUTORY INSTRUMENTS

1996 No. 2890

The Housing Renewal Grants Regulations 1996

PART II

MEANS TEST FOR OWNER-OCCUPIER'S AND TENANT'S APPLICATIONS

CHAPTER I: GENERAL

Definition of relevant person

5.—(1) Subject to paragraphs (3) and (4), in respect of any one application, other than an application for a disabled facilities grant, a relevant person is any person who—

- (a) is an applicant, or
- (b) is not an applicant but is entitled to make the application and lives or intends to live in the dwelling or, as the case may be, a flat in the building.

(2) Subject to paragraphs (3) and (4), in respect of any one application for a disabled facilities grant a relevant person is any person who—

- (a) is the disabled occupant, or one of the disabled occupants, of the dwelling or the flat in the building;
- (b) is the partner, or a partner, of the disabled occupant or of one of the disabled occupants;
- (c) where the disabled occupant or any of the disabled occupants is aged less than 18, is responsible for him within the meaning of regulation 8 (circumstances in which a person is to be treated as responsible or not responsible for another).

(3) Where sub-paragraph (a) or (b) of paragraph (1), or any of sub-paragraphs (a), (b) and (c) of paragraph (2), applies to both members of a couple or to more than one member of a polygamous marriage, one member only of that couple or of that polygamous marriage shall be a relevant person in respect of that application.

(4) A young person shall not be a relevant person except where he is the only applicant.

Definition of non-dependant

6.—(1) In these Regulations, “non-dependant” means any person, except someone to whom paragraph (2) applies, who normally resides with a relevant person or with whom a relevant person normally resides.

(2) This paragraph applies to—

- (a) any member of the relevant person's family;
- (b) if the relevant person is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;

- (c) a child or young person who is living with the relevant person but who is not a member of his household by virtue of regulation 9 (membership of the same household);
 - (d) subject to paragraph (3), a person who jointly occupies the relevant person’s dwelling and is either a co-owner of that dwelling with the relevant person or his partner (whether or not there are other co-owners) or is liable with the relevant person or his partner to make payments in respect of his occupation of the dwelling;
 - (e) subject to paragraph (3)—
 - (i) any person who is liable to make payments on a commercial basis to the relevant person or the relevant person’s partner in respect of the occupation of the dwelling,
 - (ii) any person to whom or to whose partner the relevant person or the relevant person’s partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling, or
 - (iii) any other member of the household of the person to whom or to whose partner the relevant person or the relevant person’s partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling;
 - (f) a person who lives with the relevant person in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the relevant person or his partner for the services provided by that person.
- (3) Excepting persons to whom sub-paragraphs (a) to (c) and (f) of paragraph (2) refer, a person shall be a non-dependant if he resides with a relevant person to whom he is liable to make payments in respect of the dwelling and either—
- (a) that relevant person is a close relative of his or his partner, or
 - (b) the tenancy or other agreement between them is other than on a commercial basis.
- (4) For the purposes of this regulation—
- (a) a person resides with another only if they share any accommodation except a bathroom, a lavatory or a communal area but not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord;
 - (b) “communal area” means an area, other than a room or rooms, of common access (including halls and passageways).

Remunerative work

7.—(1) Subject to the following provisions of this regulation, a person shall be treated for the purposes of these Regulations as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.

(2) Subject to paragraph (3), in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard shall be had to the average of hours worked over—

- (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does not work, those periods but disregarding any other absences);
- (b) in any other case, the period of 5 weeks immediately prior to the date of the application, or such other length of time as may, in the particular case, enable the person’s weekly average of hours of work to be determined more accurately.

(3) 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.

(4) Where no recognisable cycle has been established in respect of a person's work, regard shall be had to the number of hours or, where those hours fluctuate, the average of the hours, which he is expected to work in a week.

(5) A person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(6) A person in receipt of income support or an income-based jobseeker's allowance for more than 3 days in any period of 7 consecutive days commencing upon a Monday and ending on a Sunday shall be treated as not being in remunerative work in that week.

(7) A person shall not be treated as engaged in remunerative work on any day on which that person is on maternity leave or is absent from work because he is ill.

Circumstances in which a person is to be treated as responsible or not responsible for another

8.—(1) Subject to the following provisions of this regulation a person shall be treated as responsible for a child or young person who is normally living with him.

(2) Where there is a question as to which person a child or young person is normally living with, the child or young person shall be treated for the purposes of paragraph (1) as normally living with—

- (a) the person who is receiving child benefit in respect of him; or
- (b) if there is no such person—
 - (i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or
 - (ii) in any other case the person who has the primary responsibility for him.

(3) For the purposes of these Regulations any person other than the one treated as responsible for the child or young person under this regulation shall be treated as not so responsible.

Circumstances in which a person is to be treated as being or not being a member of the household

9.—(1) Subject to paragraphs (2) to (4), a relevant person and any partner and, where the relevant person or his partner is treated as responsible by virtue of regulation 8 for a child or young person, that child or young person and any child of that child or young person, shall be treated as members of the same household notwithstanding that any of them is temporarily living away from the other members of his family.

(2) Paragraph (1) shall not apply to a person who is living away from the other members of his family where—

- (a) that person does not intend to resume living with the other members of his family; or
- (b) his absence from the other members of his family is likely to exceed 52 weeks, unless there are exceptional circumstances (for example where the person is in hospital or otherwise has no control over the length of his absence) and the absence is unlikely to be substantially more than 52 weeks.

(3) A child or young person shall not be treated as a member of the relevant person's household where he is—

- (a) placed with the relevant person or his partner by a local authority under section 23(2)(a) of the Children Act 1989(1) or by a voluntary organisation under section 59(1)(a) of that Act; or
 - (b) placed with the relevant person or his partner prior to adoption; or
 - (c) placed for adoption with the relevant person or his partner pursuant to a decision under the Adoption Agencies Regulations 1983(2) or the Adoption Agencies (Scotland) Regulations 1984(3).
- (4) Subject to paragraph (5), paragraph (1) shall not apply to a child or young person who is not living with the relevant person and who—
- (a) is being looked after by a local authority under relevant enactment; or
 - (b) has been placed with a person other than the relevant person prior to adoption; or
 - (c) has been placed for adoption pursuant to a decision under the Adoption Agencies Regulations 1983 or the Adoption Agencies (Scotland) Regulations 1984.
- (5) A child or young person to whom paragraph (4)(a) applies shall be treated as being a member of the relevant person’s household in any period of 7 consecutive days commencing upon a Monday and ending on a Sunday where—
- (a) that child or young person lives with the relevant person for part or all of that period, and
 - (b) it is reasonable to do so taking into account the nature and frequency of that child’s or young person’s visits.
- (6) In this regulation “relevant enactment” means the Army Act 1955(4), the Air Force Act 1955(5), the Naval Discipline Act 1957(6), the Adoption Act 1958(7), the Matrimonial Proceedings (Children) Act 1958(8), the Social Work (Scotland) Act 1968(9), the Family Law Reform Act 1969(10), the Children and Young Persons Act 1969(11), the Matrimonial Causes Act 1973(12), the Guardianship Act 1973(13), the Children Act 1975(14), the Domestic Proceedings and Magistrates’ Courts Act 1978(15), the Adoption (Scotland) Act 1978(16), the Child Care Act 1980(17), the Family Law Act 1986(18) and the Children Act 1989(19).

The applicable amount

- 10.**—(1) The applicable amount in respect of any one application shall be the aggregate of—
- (a) the total of the weekly applicable amounts of all those persons who are relevant persons in the case of that application, and
 - (b) £40.

(1) 1989 c. 41; section 23 was amended by the Courts and Legal Services Act 1990 (c. 41), section 116 and Schedule 16.
(2) S.I. 1983/1964.
(3) S.I. 1984/988.
(4) 1955 c. 18.
(5) 1955 c. 19.
(6) 1957 c. 53.
(7) 1958 c. 5.
(8) 1958 c. 40.
(9) 1968 c. 49.
(10) 1969 c. 46.
(11) 1969 c. 54.
(12) 1973 c. 18.
(13) 1973 c. 29.
(14) 1975 c. 72.
(15) 1978 c. 22.
(16) 1978 c. 28.
(17) 1980 c. 5.
(18) 1986 c. 55.
(19) 1989 c. 41.

- (2) For the purposes of paragraph (1), the weekly applicable amount—
- (a) as regards a relevant person who is in receipt of income support, is £1;
 - (b) as regards any other relevant person, is the amount determined in his case in accordance with regulation 14 (applicable amounts).

Financial resources

11. In respect of any one application, the amount which is to be taken to be the financial resources of the applicant or applicants shall be the total of the incomes of all those persons who are relevant persons in the case of that application, and the income of each relevant person shall be determined in accordance with regulation 18 (determination of income on a weekly basis).