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STATUTORY INSTRUMENTS

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**1999 No. 2734**

**SOCIAL SECURITY**

**The Housing Benefit (General)  
Amendment (No. 3) Regulations 1999**

*Made - - - - 30th September 1999*  
*Laid before Parliament 5th October 1999*  
*Coming into force in accordance with regulation 1(1)*

The Secretary of State for Social Security in exercise of powers conferred by sections 123(1)(d), 130(2) and (4), 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(1) and section 63(3) of the Social Security Administration Act 1992(2) and of all other powers enabling him in that behalf, after consultation with the organisations appearing to him to be representative of the authorities concerned(3) and after reference to the Social Security Advisory Committee of proposals in respect of regulations 1 to 11 and 13 of this Instrument(4), and after agreement by the Social Security Advisory Committee that proposals in respect of regulation 12 of this Instrument should not be referred to it(5), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Housing Benefit (General) Amendment (No. 3) Regulations 1999 and shall come into force—

- (a) for the purposes of this regulation and regulations 12 and 13, on 1st November 1999;
- (b) for the purposes of regulation 6, on 3rd April 2000; and
- (c) for the purposes of regulations 2 to 5 and 7 to 11,
  - (i) in any case where rent is payable at intervals of a whole number of weeks, on 3rd April 2000; and
  - (ii) in any other case, on 1st April 2000.

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

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(1) 1992 c. 4; section 137(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”.  
(2) 1992 c. 5.  
(3) See section 176(1)(b) of the Social Security Administration Act 1992 (c. 5).  
(4) See section 172(1) of the Social Security Administration Act 1992.  
(5) See section 173(1)(b) of the Social Security Administration Act 1992.  
(6) S.I. 1987/1971.

### **Amendment of regulation 2 of the Housing Benefit Regulations**

2. In paragraph (1) of regulation 2 of the Housing Benefit Regulations (interpretation) there shall be inserted in the appropriate place the following definition—

““supported accommodation” has the meaning given in paragraph 7 of Schedule 1 (ineligible service charges);”.

### **Amendment of regulation 8 of the Housing Benefit Regulations**

3. In paragraph (2A) of regulation 8 of the Housing Benefit Regulations(7) (eligible housing costs) for the words “or Schedule 1 (ineligible service charges)” there shall be substituted the words “or Schedules 1 (ineligible service charges) or 1B (service charges for claimants in supported accommodation)”.

### **Amendment of regulation 10 of the Housing Benefit Regulations**

4. In paragraph (7) of regulation 10 of the Housing Benefit Regulations (rent) for the words “Schedule 1” there shall be substituted the words “Schedules 1 (ineligible service charges) and 1B (service charges for claimants in supported accommodation)”.

### **Amendment of regulation 11 of the Housing Benefit Regulations**

5. In regulation 11 of the Housing Benefit Regulations (maximum rent) after paragraph (5) there shall be inserted the following paragraphs—

“(5A) In a case where a maximum rent has been determined in respect of a claimant under paragraph (2), (3), (3A)(8), (4) or (5), that maximum rent shall be adjusted in accordance with paragraphs (5B) to (5F) as appropriate.

(5B) A maximum rent determined under paragraph (2), (3), (3A) or (4) shall, subject to paragraphs (5C) and (5D), be increased by the sum of those service charges specified in the exceptions provided in sub-paragraphs (a)(iv)(cc), (c) and (f) of paragraph 1 of Schedule 1 (ineligible service charges) and Schedule 1B(9) (service charges for claimants in supported accommodation) determined by the appropriate authority as eligible to be met by housing benefit, and the maximum rent shall be that increased amount.

(5C) In a case to which paragraph (2) applies, where a rent officer has determined a relevant rent which includes an amount in respect of service charges for—

- (a) the cleaning of rooms and windows which are eligible to be met by housing benefit, other than those eligible by virtue of sub-paragraphs (a)(iv)(aa) or (bb) of paragraph 1 of Schedule 1;
- (b) the provision of an emergency alarm system; or
- (c) general counselling or any other support,

that amount shall be deducted from the maximum rent before any increase under paragraph (5B).

(5D) In a case to which paragraph (4) applies, the appropriate authority shall reduce the relevant rent by the sum of those service charges for—

- (a) the cleaning of rooms and windows which are eligible to be met by housing benefit, other than those eligible by virtue of sub-paragraphs (a)(iv)(aa) or (bb) of paragraph 1 of Schedule 1;

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(7) Paragraph (2A) was inserted by [S.I. 1992/201](#).

(8) Paragraph (3A) was inserted by [S.I. 1996/965](#).

(9) Schedule 1B was inserted by [S.I. 1999/2734](#).

- (b) the provision of an emergency alarm system; or
- (c) general counselling or any other support,

determined by a rent officer as eligible to be met by housing benefit, and use that relevant rent so reduced in determining whether that case should fall under either sub-paragraph (a) or (b) of that paragraph and in a case which falls under sub-paragraph (b) the sum of those service charges shall be deducted from the maximum rent before any increase under paragraph (5B)

(5E) In the case of a claimant who occupies supported accommodation and whose case falls under paragraph (5), the appropriate authority shall treat references to the local reference rent as references to the local reference rent plus those service charges it has determined as eligible to be met by housing benefit under sub-paragraphs (a)(iv)(cc), (c) and (f) of paragraph (1) of Schedule 1 (ineligible service charges) and Schedule 1B (service charges for claimants in supported accommodation).”.

### **Amendment of regulation 12A of the Housing Benefit Regulations**

**6.** In paragraph (1A) of regulation 12A of the Housing Benefit Regulations(**10**) (requirement to refer to rent officers)—

- (a) in sub-paragraph (a) for the word “they” there shall be substituted the words “those payments”;
- (b) for sub-paragraph (b) there shall be substituted the following sub-paragraph—
  - “(b) where those payments include any of the service charges specified in paragraph (1ZA)—
    - (i) that such charges are included; and
    - (ii) the amount of those charges which the appropriate authority has determined as—
      - (aa) ineligible to be met by housing benefit in accordance with regulation 10(3) and Schedule 1 (ineligible service charges); and
      - (bb) eligible to be met by housing benefit in accordance with regulation 10(3), that Schedule and Schedule 1B (service charges for claimants in supported accommodation).”;
- (c) sub-paragraph (c)(**11**) shall be omitted; and
- (d) after paragraph (1A) there shall be inserted the following paragraph—
  - “(1ZA) Charges in respect of the following are the service charges to which sub-paragraph (b) of paragraph (1A) applies—
    - (a) the cleaning of rooms and windows (except services specified in sub-paragraphs (a)(iv)(aa) or (bb) of paragraph (1) of Schedule 1 (ineligible service charges));
    - (b) the provision of an emergency alarm system;
    - (c) medical expenses;
    - (d) the provision of nursing care or personal care; and
    - (e) general counselling or other support services.”

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**(10)** Regulation 12A was inserted by [S.I. 1990/546](#), and paragraph (1A) was inserted by [S.I. 1995/2868](#).

**(11)** Sub-paragraph (c) was added to regulation 12A by [S.I. 1998/563](#).

### **Amendment of regulation 68 of the Housing Benefit Regulations**

7. In regulation 68 of the Housing Benefit Regulations<sup>(12)</sup> (date on which change of circumstances is to take effect)—

- (a) in paragraph (1) for the words “to (7)” there shall be substituted the words “to (8)”; and
- (b) at the end there shall be added the following paragraph—

“(8) Where the change of circumstances is the receipt of a community care assessment by a claimant in supported accommodation, that change of circumstances shall take effect on the date on which the appropriate authority is required to treat the community care assessment as made under these Regulations.”.

### **Amendment of Schedule 1 to the Housing Benefit Regulations**

8.—(1) Schedule 1 to the Housing Benefit Regulations (ineligible service charges) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 1—

- (a) in head (iv) of sub-paragraph (a) for the words “(other than communal areas)” to the end of the head there shall be substituted the words—

“except—

(aa) the exterior of any windows in accommodation (other than supported accommodation) where neither the claimant nor any member of his household is able to clean those windows himself;

(bb) in communal areas; or

(cc) where the claimant is in supported accommodation and those charges fall under paragraph 3 of Schedule 1B (service charges for claimants in supported accommodation); and”;

- (b) in sub-paragraph (c) for the words “such a system” to the end of that sub-paragraph there shall be substituted the words “the claimant is in supported accommodation and those charges fall under paragraph 4 of Schedule 1B (service charges for claimants in supported accommodation);”; and

- (c) in sub-paragraph (f)<sup>(13)</sup> for heads (i) to (iii) there shall be substituted the following heads—

“(i) are provided to a claimant in supported accommodation by his landlord in person or someone on his behalf; and

(ii) fall under paragraph 2 of Schedule 1B (service charges for claimants in supported accommodation); and”.

(3) In paragraph 7—

- (a) after the words “In this Schedule” there shall be inserted the words “and Schedule 1B (service charges for claimants in supported accommodation)”; and

- (b) in the definition of “supported accommodation”<sup>(14)</sup>—

(i) for the words “was either occupied or available for occupation on 18th August 1997 and which was at that date and continues to be” there shall be substituted the word “is”;

(ii) in head (b) the word “accommodation” shall be omitted where it first appears;

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<sup>(12)</sup> The relevant amending instrument is [S.I. 1995/511](#).

<sup>(13)</sup> Relevant amending instruments are [S.I. 1997/1974](#) and [1998/1732](#).

<sup>(14)</sup> The definition of supported accommodation was inserted by [S.I. 1997/1974](#).

- (iii) in head (b) for the words “where care, support or supervision is provided by, or on behalf of, that body to the occupants of that accommodation” there shall be substituted the words—

“where that body or a person acting on its behalf also provides the claimant with care, support or supervision”;

- (iv) for head (c) there shall be substituted the following head—

“(c) occupied by a person whom a local authority has assessed in accordance with section 47 of the National Health Service and Community Care Act 1990<sup>(15)</sup> or section 12A of the Social Work (Scotland) Act 1968<sup>(16)</sup> as having needs which call for the provision of services—

(i) specified in any of the exceptions provided in sub-paragraphs (a)(iv)(cc), (c) and (f) of paragraph (1) of this Schedule and Schedule 1B (service charges for claimants in supported accommodation); and

(ii) which that authority has confirmed the landlord as either capable of providing or ensuring their provision by others,”; and

- (v) for the words “accommodation which would fall” to the end of the definition there shall be substituted the words—

“where a community care assessment to which head (c) refers is made following a period in which the claimant has incurred liability in respect of any of the services specified in the exceptions provided in sub-paragraphs (a)(iv)(cc), (c) and (f) of paragraph 1 of this Schedule and Schedule 1B (service charges for claimants in supported accommodation) and that liability is continuous up to the date of that community care assessment, the appropriate authority shall treat the assessment as if it were made on—

- (i) in the case of a claimant who claims housing benefit (other than by way of a claim for a further grant of that benefit) on or after—

(aa) 3rd April 2000 in a case where rent is payable at intervals of a whole number of weeks; or

(bb) 1st April 2000 in any other case,

the date on which that claim is made or treated as made;

- (ii) in the case of a claimant who was entitled to housing benefit on—

(aa) 3rd April 2000 in a case where rent is payable at intervals of a whole number of weeks; or

(bb) 1st April 2000 in any other case,

but whose award would have been for a higher amount had the community care assessment been made earlier, the 3rd or 1st April as the case may be; or

- (iii) in the case of a claimant who claims housing benefit on or after 1st April 2000 but is not entitled to that benefit, but who would have been so entitled had the community care assessment been made on or before that date, the date on which his entitlement would have commenced under regulation 65 (date on which entitlement is to commence had that community care assessment been made on the date on which he made that claim.”.

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<sup>(15)</sup> 1990 c. 19.

<sup>(16)</sup> 1968 c. 49.

## Insertion of Schedule 1B to the Housing Benefit Regulations

9. After Schedule 1A to the Housing Benefit Regulations(17) (excluded tenancies) there shall be inserted the following schedule—

### “SCHEDULE 1B

Regulation 10 and Schedule 1

#### SERVICE CHARGES FOR CLAIMANTS IN SUPPORTED ACCOMMODATION

1. Subject to paragraph 3 of Schedule 1 the service charges specified in paragraphs 2 to 4 shall be eligible to be met by housing benefit.

2. The service charges in respect of general counselling or other support which fall under this paragraph are—

- (a) charges in respect of time spent in the provision of general counselling or other support which assists the claimant with maintaining the security of the dwelling he occupies as his home;
- (b) charges in respect of time spent in the provision of general counselling or other support which assists the claimant with maintaining the safety of the dwelling he occupies as his home (including making arrangements for the checking of the claimant’s own appliances where these could pose a safety hazard);
- (c) charges in respect of time spent in the provision of general counselling or other support which is directed at assisting the claimant with compliance with those terms in his tenancy agreement concerned with—

- (i) nuisance;
- (ii) rental liability;
- (iii) maintenance of the interior of the dwelling in an appropriate condition; and
- (iv) the period for which the tenancy is granted,

such charges to include those in respect of time spent in the provision of general counselling or other support which assists the claimant with contacts with individuals or professional or other bodies with an interest in ensuring his welfare; and

- (d) provided that they are not charges specified in any of sub-paragraphs (a)–(c), charges in respect of time spent in the provision of general counselling or other support which is provided to the claimant—
  - (i) by either a resident warden or a non-resident warden with a system for calling him;
  - (ii) in accommodation which it is the practice of the landlord to let for occupation by persons in need of general counselling or other support services where the dwelling is one of a group of dwellings and that warden provides services which are wholly or mainly for the purposes of assisting persons in those dwellings.

3. The service charges in respect of the cleaning of rooms and windows which fall under this paragraph are those where neither the claimant nor any member of his household is able to clean them himself.

4. The service charges in respect of the provision of an emergency alarm system which fall under this paragraph are those where the emergency alarm system is provided in accommodation which is occupied by elderly, sick or disabled persons and such accommodation, apart from the alarm system, is either—

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(17) Schedule 1A was inserted by [S.I. 1990/546](#).

- (i) specifically designed or adapted for such persons, or
- (ii) otherwise particularly suitable for them, having regard to its size, heating system and other major features or facilities.”.

### **Amendment of the Housing Benefit (General) Amendment Regulations 1995**

**10.** Regulation 10 (saving provision) of the Housing Benefit (General) Amendment Regulations 1995<sup>(18)</sup> shall be amended as follows—

- (a) in paragraph (1) at the end there shall be added the words—

“but as if references to Schedule 1 (ineligible service charges) were references to Schedules 1 (ineligible service charges) and 1B (service charges for claimants in supported accommodation) as in force on 3rd April 2000, and as if in paragraph (7) of regulation 10 there were substituted for the words “and Schedule 1” the words “Schedules 1 (ineligible service charges) and 1B (service charges for claimants in supported accommodation)””;
- (b) in paragraph (6) in the definition of “exempt accommodation” in head (ii) for the words “where care, support or supervision is provided by, or on behalf of, that body to the occupants of that accommodation” there shall be substituted the words—

“where that body or a person acting on its behalf also provides the claimant with care, support or supervision”.

### **Savings**

**11.—**(1) In paragraph (1) of regulation 12 of the Housing Benefit Regulations as saved by paragraph (3) of regulation 4 of the Housing Benefit and Council Tax Benefit (General) Amendment Regulations 1997<sup>(19)</sup> (“the 1997 Regulations”) for the word “may” where it first appears there shall be substituted the word “shall”.

(2) In a case where the claimant is a person who meets the conditions specified in paragraph (3) the appropriate authority shall, when calculating 50 per cent. of the amount by which the relevant rent exceeds the local reference rent, deduct from the relevant rent the following charges determined by the rent officer as eligible to be met by housing benefit—

- (a) charges in respect of the cleaning of rooms and windows other than those eligible by virtue of sub-paragraphs (a)(iv)(aa) or (bb) of paragraph 1 of Schedule 1;
- (b) charges in respect of the provision of an emergency alarm system; or
- (c) charges in respect of general counselling or any other support.

(3) The conditions of this paragraph are that the claimant is a person—

- (a) in respect of whom sub-paragraph (c) of paragraph (2) of regulation 3 of the 1997 Regulations does not have effect, by virtue of paragraph (1) of regulation 4 (savings) of those Regulations; and
- (b) whose maximum rent falls to be adjusted in accordance with paragraph (5A) of regulation 11 of the Housing Benefit Regulations.

(4) In a case where the claimant is a person to whom paragraph (3) of regulation 4 (savings) of the 1997 Regulations applies the appropriate authority shall apply regulation 12 as if—

- (i) in paragraph (1) after the words “paragraph (2)” there were inserted the words “and paragraph (2A)”;

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<sup>(18)</sup> S.I. 1995/1644.

<sup>(19)</sup> S.I. 1997/852 as amended by S.I. 1997/1975.

(ii) after paragraph (2) there were inserted the following paragraph—

“(2A) This regulation shall not apply to any increase in a claimant’s eligible rent in respect of those service charges specified in the exceptions provided in sub-paragraphs (a)(iv)(cc), (c) or (f) of paragraph 1 of Schedule 1 (ineligible service charges) and Schedule 1B (service charges for claimants in supported accommodation).”.

**Amendment of regulation 3 of the Housing Benefit (General) Amendment (No. 2) Regulations 1997**

**12.** In regulation 3 of the Housing Benefit (General) Amendment (No. 2) Regulations 1997<sup>(20)</sup> (date the Regulations are to cease to have effect), for the words “on 31st October 1999” there shall be substituted the words “in any case where rent is payable at intervals of a whole number of weeks, on 2nd April 2000, and in any other case on 31st March 2000”.

**Cessation in operation of these Regulations**

**13.** These Regulations shall cease to have effect—

- (a) in any case where rent is payable at intervals of a whole number of weeks, on 6th April 2003; and
- (b) in any other case, on 31st March 2003,

and the Housing Benefit Regulations, the Housing Benefit (General) Amendment Regulations 1995<sup>(21)</sup> and the Housing Benefit and Council Tax Benefit (General) Amendment Regulations 1997<sup>(22)</sup> shall apply thereafter as if the amendments made to them by these Regulations had not been made.

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

30th September 1999

*Angela Eagle*  
Parliamentary Under-Secretary of State,  
Department of Social Security

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<sup>(20)</sup> S.I. 1997/1974 as amended by S.I. 1998/1732.  
<sup>(21)</sup> S.I. 1995/1644.  
<sup>(22)</sup> S.I. 1997/852.



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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Department of Social Security Department of Social Security These Regulations amend the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) (“the Housing Benefit Regulations”).

Department of Social Security Regulation 5 inserts new paragraphs into regulation 11 of the Housing Benefit Regulations, so as to adjust the maximum rent of a claimant in supported accommodation (as defined).

Regulation 6 amends regulation 12A of the Housing Benefit Regulations, and specifies certain service charges which the appropriate authority is required to identify to the rent officer as eligible or ineligible to be met by housing benefit.

Regulation 7 amends regulation 68 of the Housing Benefit Regulations which is concerned with changes of circumstances, so as to make provision for the date on which receipt of a community care assessment by a person in supported accommodation is to take effect.

Regulation 8 amends Schedule 1 to the Housing Benefit Regulations. In particular, it amends provisions in paragraph 1 of that Schedule concerning service charges in respect of the cleaning of rooms and windows, emergency alarm systems, and general counselling and support. The definition of “supported accommodation” in paragraph 7 of Schedule 1 is amended with new provision made for claimants in respect of whom the local authority has made a community care assessment.

Regulation 9 inserts a new Schedule 1B, which specifies certain service charges which are eligible for housing benefit where the claimant is in supported accommodation (as defined).

Regulation 10 makes consequential amendments to the Housing Benefit (General) Amendment Regulations 1995 (S.I. 1995/1644), in particular amending the definition of “exempt accommodation” so that it follows where appropriate that of “supported accommodation”.

Regulation 11 amends the savings provision provided in the Housing Benefit and Council Tax Benefit (General) Amendment Regulations 1997 (S.I. 1997/852). The appropriate authority is required to deduct certain specified charges from the relevant rent in its calculation of the maximum rent. In addition, the appropriate authority must restrict certain increases in rent (excluding any increases in support charges which fall under Schedule 1B) which it considers unreasonable to be met by housing benefit.

Regulation 12 amends the Housing Benefit (General) Amendment (No. 2) Regulations 1997 (S.I. 1997/1974) (“the 1997 Regulations”) which themselves amend the Housing Benefit Regulations. The 1997 Regulations amend the Housing Benefit Regulations so as to make service charges for general counselling and support eligible for housing benefit where the claimant occupies supported accommodation (as defined). Regulation 3 of the 1997 Regulations provides that those Regulations shall cease to have effect on 31st October 1999. (This date was substituted for the earlier date of 31st October 1998 by S.I. 1998/1732). These Regulations amend regulation 3 of the 1997 Regulations so as to further extend the period during which they have effect until 31st March or 2nd April 2000.

Regulation 13 provides for these Regulations to cease to have effect on either 31st March or 6th April 2003.

Regulation 2 inserts the definition of “supported accommodation” into regulation 2 of the Housing Benefit Regulations.

Regulation 3 amends regulation 8 of the Housing Benefit Regulations and is a minor consequential amendment.

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

Regulation 4 amends regulation 10 of the Housing Benefit Regulations and is a minor consequential amendment.

The costs to business of these Regulations have been assessed in a Regulatory Impact Assessment (“RIA”), a copy of which has been placed in the libraries of both Houses of Parliament. Further copies may be obtained from the Department of Social Security, Regulatory Impact Unit, The Adelphi, 1–11 John Adam Street, London WC2N 6HT.