
STATUTORY INSTRUMENTS

1987 No. 1971

The Housing Benefit (General) Regulations 1987

PART XII

PAYMENTS

Time and manner of payment

88.—(1) Subject to paragraphs (2) and (3) and regulations 90 to 97 (frequency of payment of rent allowance, and payment on account of a rent allowance, payment provisions, offsetting) the appropriate authority shall pay housing benefit to which a person is entitled under these Regulations at such time and in such manner as is appropriate, having regard to—

- (a) the times at which and the frequency with which a person's liability to make payment of rent or rates arises, and
- (b) the reasonable needs and convenience of the person entitled thereto.

(2) Where a person's entitlement to housing benefit is less than £1 weekly the appropriate authority may pay that benefit at 6 monthly intervals.

(3) Subject to regulations 91 to 96 (payment on account of rent allowance, payment provisions) every authority shall make the first payment of any housing benefit awarded by it within 14 days of the receipt of the claim at the designated office or, if that is not reasonably practicable, as soon as possible thereafter.

Circumstances in which a rate rebate may be treated as if it fell to be paid as a rent allowance

89. The circumstances in which a rate rebate may be treated as if it fell to be paid as a rent allowance are that a person is liable to make payments by way of rates or an amount treated as a payment of rates by virtue of regulation 9(2) (rates), other than to a rating authority.

Frequency of payment of a rent allowance

90.—(1) Subject to paragraphs (3) to (5) any rent allowance other than a payment made in accordance with regulation 88(2) or (3) or 91 (time and manner of payment, payment on account of rent allowance) shall be paid at intervals of 2 or 4 weeks or one month or, with the consent of the person entitled, at intervals greater than one month.

(2) A payment of a rent allowance in accordance with paragraph (1) shall be made insofar as it is practicable to do so, 2 weeks before the end of the period in respect of which it is made unless the liability to pay rent of the person entitled is in respect of a past period, in which case payment of the rent allowance may be made at the end of that period.

(3) Where a person's weekly entitlement to a rent allowance is more than £2 he may require payment at two weekly intervals and the appropriate authority shall pay at two weekly intervals in such a case.

(4) The appropriate authority may pay a rent allowance at weekly intervals where either—

- (a) it considers that unless the rent allowance is paid at weekly intervals an overpayment is likely to occur; or
 - (b) the person entitled is liable to pay his rent weekly and it considers that it is in his interest that his allowance be paid weekly.
- (5) Subject to paragraphs (2) and (3), the appropriate authority may pay a rent allowance to a student once a term.

Payment on account of a rent allowance

91.—(1) Where it is impracticable for the appropriate authority to determine a claim for a rent allowance within 14 days of the claim for it having been made and that impracticability does not arise out of the failure of the claimant, without good cause, to furnish such information, certificates, documents or evidence as the authority reasonably requires and has requested, the authority shall make a payment on account of any entitlement to a rent allowance of such amount as it considers reasonable having regard to such information which may at the time be available to it concerning the claimant’s circumstances.

(2) The notice of award of any payment on account of a rent allowance made under paragraph (1) shall contain a notice to the effect that if on subsequent determination of the claim the person is not entitled to a rent allowance, or is entitled to an amount of rent allowance less than the amount of the payment on account, the whole of the amount paid on account or the excess of that amount over the entitlement to an allowance, as the case may be, will be recoverable from the person to whom the payment on account was made.

(3) Where on subsequent determination the amount of rent allowance payable differs from the amount paid on account under paragraph (1), future payments of rent allowance shall be increased or reduced to take account of any underpayment or, as the case may be, overpayment.

Payment to be made to a person entitled

92.—(1) Subject to regulations 93 to 96 (payment to landlords, withholding benefit, payment on death) and the following provisions of this regulation, payment of any rent allowance to which a person is entitled shall be made to that person.

(2) Where a person other than a person who is entitled to a rent allowance or rate rebate made the claim and that first person is a person referred to in regulation 71(2), (3) or (5) (persons appointed to act for a person unable to act), payment may be made to that person.

(3) A person entitled to a rent allowance, although able to act on his own behalf, may request in writing that the appropriate authority make payments to a person, who if a natural person must be aged 18 or more, nominated by him, and the authority may make payments to that person.

Circumstances in which payment is to be made to a landlord

93. A payment of rent allowance shall be made to a landlord (and in this regulation the “landlord” includes a person to whom rent or sums by way of rates are payable by the person entitled to that allowance)–

- (a) where under Regulations made under the Act an amount of income support payable to the claimant or his partner is being paid direct to the landlord; or
- (b) where sub-paragraph (a) does not apply and the person is in arrears of an amount equivalent to 8 weeks or more of the amount he is liable to pay his landlord as rent, except where it is in the overriding interest of the claimant not to make direct payments to the landlord.

Circumstances in which payment may be made to a landlord

94. Where regulation 93 (circumstances in which payment is to be made to a landlord) does not apply, a payment of a rent allowance may nevertheless be made to a person's landlord where—

- (a) the person has requested or consented to such payment;
- (b) payment to the landlord is in the interest of the claimant and his family;
- (c) the person has ceased to reside in the dwelling in respect of which the allowance was payable and there are outstanding payments of rent but any payment under this subparagraph shall be limited to an amount equal to the amount of rent outstanding.

Withholding of benefit

95.—(1) An authority shall withhold payment of a rent allowance where, but for the fact that it is in the overriding interest of the claimant not to make direct payment to his landlord, the authority would have made direct payments under Regulation 93(b) (circumstances in which payment is to be made to a landlord).

(2) In any other case an authority may withhold payment of a rent allowance where it is satisfied that the person entitled to that allowance is not paying regularly the rent to which that allowance relates.

(3) A payment withheld under paragraph (1) or (2) shall be retained by the authority until such time as it is satisfied that—

- (a) the claimant has discharged his liability to his landlord; or
- (b) the claimant will discharge his liability to his landlord if payment is made to him; or
- (c) in a case to which paragraph (1) applies, it is no longer in the overriding interest of the claimant not to make payment to his landlord.

(4) Where it appears to an authority that a question has arisen in relation to a person's entitlement to housing benefit or to payment of that benefit, it may withhold payment of the benefit in whole or in part pending the determination of that question on review under regulation 79.

(5) Where it appears to an authority that a question has arisen whether any amount paid to a person by way of, or in connection with a claim for housing benefit, is recoverable under section 29 of the Act or Part XIII (overpayments) of these Regulations, it may withhold any payment of arrears of benefit to that person, in whole or in part, pending the determination of that question.

(6) Upon determination of a question to which paragraph (4) or (5) refers, any benefit withheld under those paragraphs shall be paid except to the extent that there was no entitlement to that benefit or a recoverable overpayment remains unrecovered from the person from whom benefit was withheld.

Payment on death of the person entitled

96.—(1) Where the person entitled to an allowance has died the appropriate authority shall make payment either to his personal representative or, where there is none, his next of kin if aged 16 or over.

(2) For the purposes of paragraph (1) "next of kin" means in England and Wales the persons who would take beneficially on an intestacy and in Scotland the persons entitled to the moveable estate on intestacy.

(3) A payment under paragraph (1) may not be made unless the personal representative or the next of kin, as the case may be, makes written application for the payment of any sum of benefit to which the deceased was entitled, and such written application is sent to or delivered to the appropriate authority at its designated office within 12 months of the deceased's death or such longer period as the authority may allow in any particular case.

(4) The authority may dispense with strict proof of title of any person claiming under paragraph (3) and the receipt of such a person shall be a good discharge to the authority for any sum so paid.

Offsetting

97.—(1) Where a person has been paid a sum of housing benefit under a determination which is subsequently revised upon review or further review, any sum paid in respect of a period covered by the subsequent determination shall be offset against arrears of entitlement under the subsequent determination except to the extent that the sum exceeds the arrears and shall be treated as properly paid on account of them.

(2) No amount may be offset under paragraph (1) which has been determined to be a recoverable overpayment under regulation 99 (recoverable overpayments).