
STATUTORY INSTRUMENTS

1987 No. 1971

The Housing Benefit (General) Regulations 1987

PART III

PAYMENTS IN RESPECT OF A DWELLING

Restrictions on unreasonable payments

11.—(1) Where a rent is registered in respect of a dwelling under Part IV or V of the Rent Act 1977⁽¹⁾ or Part IV or VII of the Rent (Scotland) Act 1984⁽²⁾ and the rent recoverable from a claimant is limited to the rent so registered, his eligible rent determined in accordance with regulation 10 (rent) shall not exceed the rent so registered.

(2) Subject to paragraphs (3) and (4), where the appropriate authority considers—

- (a) that a claimant occupies a dwelling larger than is reasonably required by him and others who also occupy that dwelling (including any non-dependants of his and any person paying rent to him) having regard in particular to suitable alternative accommodation occupied by a household of the same size; or
- (b) that the rates payable for the claimant's dwelling are unreasonably high by comparison with the rates payable in respect of suitable alternative accommodation elsewhere; or
- (c) that the rent payable for his dwelling is unreasonably high by comparison with the rent payable in respect of suitable alternative accommodation elsewhere,

the authority may treat the claimant's eligible rates, or, as the case may be, eligible rent, as reduced by such amount as it considers appropriate having regard in particular to the cost of suitable alternative accommodation elsewhere and the claimant's maximum housing benefit shall be calculated by reference to the eligible rates or eligible rent as so reduced.

(3) If any person to whom paragraph (7) applies—

- (a) is aged 60 or over; or
- (b) is incapable of work for the purposes of one or more of the provisions of the Social Security Act, or Part I of the Social Security and Housing Benefits Act 1982⁽³⁾ or Part II of the Act; or
- (c) is a member of the same household as a child or young person for whom he or his partner is responsible,

no deduction shall be made under paragraph (2) unless suitable cheaper alternative accommodation is available and the authority considers that, taking into account the relevant factors, it is reasonable to expect the claimant to move from his present accommodation.

(4) Without prejudice to the operation of paragraph (3), but subject to paragraph (5), where the appropriate authority is satisfied that a person to whom paragraph (7) applies was able to meet the

(1) 1977 c. 42.

(2) 1984 c. 58; section 63 amended by the Housing (Consequential Provisions) Act 1985 (c. 71) Schedule 2 paragraph 59.

(3) 1982 c. 24.

financial commitments for his dwelling when they were entered into, no deduction shall be made under paragraph (2) during the first 13 benefit weeks of the claimant's benefit period.

(5) Paragraph (4) shall not apply where a claimant was previously entitled to benefit in respect of a benefit period which fell wholly or partly less than 52 weeks before the commencement of his current benefit period.

(6) For the purposes of this regulation—

- (a) in deciding what is suitable alternative accommodation, the appropriate authority shall take account of the nature of the alternative accommodation and the facilities provided having regard to the age and state of health of all the persons to whom paragraph (7) applies and, in particular, where a claimant's present dwelling is occupied with security of tenure, accommodation shall not be treated as suitable alternative accommodation unless that accommodation will be occupied on terms which will afford security of tenure reasonably equivalent to that presently enjoyed by the claimant; and
- (b) the relevant factors in paragraph (3) are the effects of a move to alternative accommodation on—
 - (i) the claimant's prospects of retaining his employment; and
 - (ii) the education of any child or young person referred to in paragraph (3)(c) if such a move were to result in a change of school.

(7) This paragraph applies to the following persons—

- (a) the claimant;
- (b) any member of his family;
- (c) if the claimant is a member of a polygamous marriage, any partners of his and any child or young person for whom he or a partner is responsible and who is a member of the same household;
- (d) subject to paragraph (8), any relative of the claimant or his partner who occupies the same dwelling as the claimant, whether or not they reside with him.

(8) Paragraph (7)(d) shall only apply to a relative who has no separate right of occupation of the dwelling which would enable him to continue to occupy it even if the claimant ceased his occupation of it.