

2001 No. 487

SOCIAL SECURITY

**The Housing Benefit (General) Amendment
Regulations 2001**

Made - - - - 19th February 2001
Laid before Parliament 27th February 2001
Coming into force 21st May 2001

The Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 123(1)(d), 130(2) to (5), 137(1) and (2)(i) and 175(1), (3) to (5) of the Social Security Contributions and Benefits Act 1992(a) and section 122(3) of the Housing Act 1996(b) 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(c) and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(d), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Housing Benefit (General) Amendment Regulations 2001 and shall come into force on 21st May 2001.

Amendments to the Housing Benefit (General) Regulations 1987

2. In the Housing Benefit (General) Regulations 1987(e) (“the 1987 Regulations”)—

(a) in sub-paragraph (h) of regulation 7(1)(f) (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling), for the word “except” there shall be substituted the words “and less than five years have elapsed since he or, as the case may be, his partner, ceased to own the property, save that this sub-paragraph shall not apply”;

(b) in regulation 10(g) (rent)—

(i) for paragraph (3) there shall be substituted the following paragraph—

“(3) Subject to paragraphs (4), (5) and (6B), the amount of a person’s eligible rent shall be—

(a) the maximum rent where a maximum rent has been, or falls to be, determined in accordance with regulation 11; or

(a) 1992 c. 4; section 137(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”.

(b) 1996 c. 52.

(c) See section 176(1)(b) of the Social Security Administration Act 1992 (c. 5).

(d) See section 173(1)(b) of the Social Security Administration Act 1992.

(e) S.I. 1987/1971.

(f) Paragraph (1) of regulation 7 was substituted by S.I. 1998/3257.

(g) The relevant amending instruments are S.I. 1990/546, 1993/317, 1995/1644 and 2868 and 1996/965.

- (b) except where sub-paragraph (a) applies, the aggregate of such payments specified in paragraph (1) as that person is liable to pay less—
- (i) except where he is separately liable for charges for water, sewerage or allied environmental services, an amount determined in accordance with paragraph (6);
 - (ii) where payments include service charges which are wholly or partly ineligible, an amount in respect of the ineligible charges determined in accordance with Schedule 1; and
 - (iii) where he is liable to make payments in respect of any service charges to which paragraph (1)(e) does not apply, but to which paragraph 2(1A)(a) of Schedule 1 (unreasonably low service charges) applies in the particular circumstances, an amount in respect of such charges determined in accordance with paragraph 2(1A) of Schedule 1.”; and
- (ii) sub-paragraphs (6A) to (6AB) shall be omitted;
- (c) in regulation 11(b) (maximum rent)—
- (i) for paragraph (3A), there shall be substituted the following paragraph—

“(3A) Subject to paragraph (3B), in the case of a young individual—

 - (a) except where sub-paragraph (b) applies, where the rent officer has determined a single room rent and is required to notify the authority of it, the maximum rent shall not exceed that single room rent;
 - (b) where—
 - (i) the rent officer has determined a single room rent and a claim-related rent and is required to notify the authority of them;
 - (ii) the claim-related rent includes payment in respect of meals; and
 - (iii) the single room rent is greater than the claim-related rent less an amount in respect of meals determined in accordance with paragraph 1A of Schedule 1(c),
 the maximum rent shall not exceed the claim-related rent less that amount in respect of meals.”; and
 - (ii) for paragraphs (8A) to (8C) there shall be substituted the following paragraph—

“(8A) In a case where a charge for meals is ineligible to be met by housing benefit under regulation 10(3) and paragraph 1(d) of Schedule 1, there shall be deducted an amount determined in accordance with paragraph 1A of Schedule 1 in respect of meals in the calculation of a person’s maximum rent except where the maximum rent is derived from a rent officer determination under—

 - (a) paragraph 3 (exceptionally high rents) of Schedule 1 to the Rent Officers Order(e) and the notice of claim-related rent states pursuant to paragraph 9(1)(c)(f) of that Schedule that an ineligible payment has not been included in it; or
 - (b) paragraph 5 (single room rents) of that Schedule.”;
- (d) for paragraph (3) of regulation 61(g) (maximum housing benefit) there shall be substituted the following paragraphs—
- “(3) Subject to paragraph (3A), in a case where—
- (a) regulation 11(h) applies; and

(a) Paragraph 2(1A) was inserted by S.I. 1991/235 and amended by S.I. 1993/317.

(b) The relevant amending instruments are S.I. 1995/2868, 1996/965, 1997/1975, 1998/563 and 2000/4.

(c) Paragraph 1A was inserted by S.I. 1988/1444 and amended by S.I. 1997/65, 1999/264 and 2000/4.

(d) The relevant amending instrument is S.I. 1988/1444.

(e) S.I. 1997/1984.

(f) Sub-paragraph (1) of paragraph 9 was substituted by S.I. 2000/1.

(g) Paragraph (3) was substituted by S.I. 1995/1644.

(h) Regulation 11 was substituted by S.I. 1995/1644.

- (b) the appropriate authority is satisfied that—
 - (i) the claimant would be entitled to housing benefit; and
 - (ii) the claimant or a member of his family will suffer exceptional hardship unless the amount which would be the claimant’s maximum housing benefit is increased,

the authority may determine that the amount of the person’s appropriate maximum housing benefit shall be such greater amount as it considers appropriate in the particular circumstances of the case.

(3A) A person’s appropriate maximum housing benefit under paragraph (3) shall not exceed in any week an amount which represents his eligible rent calculated—

- (a) as though a maximum rent had not been, nor falls to be, determined in his case;
- (b) as though the amount to be deducted for ineligible services falling to be determined under the Rent Officers Order as an ineligible charge (construed in accordance with paragraph 7(1)(a) of Schedule 1 to that Order) were the amount so determined; and
- (c) on a weekly basis in accordance with regulations 69 and 70 after any deduction made in accordance with section 130(3)(b) of the Contributions and Benefits Act (taper) and regulation 63 (non-dependant deductions).”; and
- (e) for paragraph 2(2) of Schedule 1A(a) (excluded tenancies) there shall be substituted the following sub-paragraphs—

“(2) Subject to paragraph (2A), for the purposes of any claim, notification or request (“the later application”), a tenancy shall not be an excluded tenancy by virtue of sub-paragraph (1) by reference to a rent officer determination made in consequence of an earlier claim, notification or request (“the earlier application”)—

- (a) where—
 - (i) the earlier and later applications were made in respect of the same claimant—
 - (aa) the benefit period to which the earlier application related began; or
 - (bb) where the benefit period was extended, the extension began,
 - 52 weeks or more before the first day of the benefit period to which the later application relates; and
 - (ii) the claimant has been continuously entitled to housing benefit since—
 - (aa) the beginning of the benefit period to which the earlier application related; or
 - (bb) where the benefit period was extended, the beginning of that extension; or
- (b) where the earlier and later applications were made in respect of different claimants and the rent officer determination—
 - (i) was made more than 12 months before the date on which the appropriate authority received the later application; or
 - (ii) was relevant for the purposes of a benefit period of the claimant who made the later application (“benefit period A”) which began 52 weeks or more before the first day of the benefit period (“benefit period B”) to which the later application relates.

(2A) Paragraph (2)(b)(ii) shall not apply where the claimant who made the later application ceased to be entitled to housing benefit for any period falling between benefit period A and benefit period B.”.

(a) Schedule 1A was inserted by S.I. 1990/546; paragraph 2(2) was substituted by S.I. 2000/4.

Transitional provision

3. In a case to which regulation 4(3) (savings) of the Housing Benefit and Council Tax Benefit (General) Amendment Regulations 1997(a) applies, regulation 10(3) of the 1987 Regulations shall have effect as though the words “and regulation 12(b)” were inserted after the words “(5) and (6B)”.

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

19th February 2001

P. Hollis
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) in the following respects.

Regulation 2(a) amends regulation 7(1)(h). A person who is liable to make payments in respect of a dwelling shall be treated as not being so liable for housing benefit purposes where the claimant or his partner owned that dwelling before they rented it unless, where the claimant demonstrates that he could not have continued to live there without selling the property, more than five years elapses between the date on which the claimant or his partner relinquished ownership of the property and the date on which housing benefit is claimed.

Regulation 2(b) substitutes regulation 10(3) which specifies how a claimant's eligible rent is established for housing benefit purposes.

Regulation 2(c) substitutes paragraphs in regulation 11 which specify how a claimant's maximum rent is established for housing benefit purposes.

Regulation 2(d) substitutes regulation 61(3). A claimant's maximum housing benefit may be increased if a maximum rent has been determined in respect of him and he, or a member of his family, would suffer exceptional hardship. In determining such an increase an authority is bound by any determination made by a rent officer as to the amount of any service charges which remain, in any event, ineligible.

Regulation 2(e) substitutes paragraph 2(2) of Schedule 1A. An authority must apply for a fresh rent officer determination in respect of a continuous claim which has lasted 52 weeks or more when the previous determination has ceased to be applicable.

Regulation 3 makes transitional provision for those cases in respect of which the revocation of regulation 12 (restriction on rent increases) of the Housing Benefit (General) Regulations 1987 did not have effect.

These Regulations do not impose a charge on business.

(a) S.I. 1997/852.

(b) Regulation 12 of the 1987 Regulations was revoked subject to a saving in S.I. 1997/852, regulation 4(3).

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