
STATUTORY INSTRUMENTS

1994 No. 470

SOCIAL SECURITY

**The Housing Benefit and Council Tax
Benefit (Amendment) Regulations 1994**

<i>Made</i> - - - -	<i>1st March 1994</i>
<i>Laid before Parliament</i>	<i>3rd March 1994</i>
<i>Coming into force</i> <i>for the purposes of</i> <i>regulations 1 and 2, and 3 in</i> <i>part</i>	<i>1st April 1994</i>
<i>for the remaining purposes</i> <i>of regulation 3</i>	<i>4th April 1994</i>

The Secretary of State for Social Security, in exercise of powers conferred upon him by sections 131(3)(b), 137(1) and (2)(i) and 175(1) to (4) of the Social Security Contributions and Benefits Act 1992⁽¹⁾, and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of the authorities concerned⁽²⁾, and after reference to the Social Security Advisory Committee⁽³⁾, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Housing Benefit and Council Tax Benefit (Amendment) Regulations 1994 and shall come into force—

- (a) for the purposes of regulations 1 and 2, on 1st April 1994; and
- (b) for the purposes of regulation 3—
 - (i) in any case where rent is payable at intervals of one month or any other interval which is not a week, or a multiple thereof, on 1st April 1994; and
 - (ii) in any other case, on 4th April 1994.

(1) 1992 c. 4; section 131(3)(b) was substituted by the Local Government Finance Act 1992 (c. 14), Schedule 9, paragraph 4; section 137(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”.
(2) See section 176(1) of the Social Security Administration Act 1992 (c. 5).
(3) See section 172(1) of the Social Security Administration Act 1992.

Amendment of the Council Tax Benefit (General) Regulations 1992

2.—(1) The Council Tax Benefit (General) Regulations 1992⁽⁴⁾ shall be amended in accordance with the following provisions of this regulation.

(2) After regulation 4 (remunerative work) there shall be inserted the following regulation—

“Persons from Abroad

4A.—(1) A person from abroad is a person of a prescribed class for the purposes of section 131(3)(b) of the Contributions and Benefits Act 1992.

(2) In paragraph (1) a “person from abroad” means a person other than a person to whom paragraph (3) or (5) applies, who has limited leave (as defined in section 33(1) of the 1971 Act) to enter or remain in the United Kingdom which was given in accordance with any provision in the immigration rules (as defined in that section) relating to—

- (a) there being, or to there needing to be, no recourse to public funds, or
- (b) there being no charge on public funds,

during that limited leave.

(3) Subject to paragraph (6) this paragraph applies to a person who—

- (a) is a national of a European Economic Area State, a state which is a signatory to the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953)⁽⁵⁾, a state which is a signatory to the Council of Europe Social Charter (signed in Turin on 18th October 1961), the Channel Islands or the Isle of Man; or
- (b) having, during any one period of limited leave (including any such period as extended), supported himself without recourse to public funds other than any such recourse by reason of the previous application of this sub-paragraph, is temporarily without funds during that period of leave because remittances to him from abroad have been disrupted, provided that there is a reasonable expectation that his supply of funds will be resumed.

(4) In paragraph (1) “person from abroad” also means any person other than a person to whom paragraph (5) applies who—

- (a) having a limited leave (as defined in section 33(1) of the 1971 Act) to enter or remain in the United Kingdom, has remained without further leave under that Act beyond the time limited by the leave; or
- (b) is the subject of a deportation order being an order under section 5(1) of the 1971 Act (deportation) requiring him to leave and prohibiting him from entering the United Kingdom except where his removal from the United Kingdom has been deferred in writing by the Secretary of State; or
- (c) is adjudged by the immigration authorities to be an illegal entrant (as defined in section 33(1) of the 1971 Act) who has not subsequently been given leave under that Act to enter or remain in the United Kingdom except a person who has been allowed to remain in the United Kingdom with the consent in writing of the Secretary of State.

(5) This paragraph applies to a person who—

- (a) is an asylum seeker, and for this purpose a person—
 - (i) becomes an asylum seeker when he has submitted a claim for asylum to the Secretary of State that it would be contrary to the United Kingdom’s

(4) S.I.1992/1814.

(5) Cmd. 9512.

obligations under the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, and the protocol to that convention, for him to be removed from, or required to leave, the United Kingdom and that claim is recorded by the Secretary of State as having been made; and

(ii) ceases to be an asylum seeker when his claim is recorded by the Secretary of State as having been finally determined or abandoned; or

(b) is awaiting the outcome of an appeal under Part II of the 1971 Act (including any period for which the appeal is treated as pending under section 33(4) of that Act); or

(c) has no or no further right of appeal under the 1971 Act but has been allowed to remain in the United Kingdom while an application so to remain is, or representations on his behalf are, being considered by the Secretary of State; or

(d) except where he is a person to whom paragraph (4)(b) applies, has been granted permission to remain in the United Kingdom pending the removal from the United Kingdom of a person who is the subject of a deportation order but whose deportation has been deferred in writing by the Secretary of State; or

(e) is subject to a direction for his removal from the United Kingdom but whose removal has been deferred in writing by the Secretary of State; or

(f) is in receipt of income support.

(6) Paragraph (3)(b) shall not apply to a person who has been temporarily without funds for any period, or the aggregate of any periods, exceeding 42 days during any one period of limited leave (including any such period as extended).

(7) In this regulation—

“the 1971 Act” means the Immigration Act 1971(6); and

a “European Economic Area State” means a Member State, or Norway, Sweden, Iceland, Austria or Finland.”.

(3) Regulation 41 (further provision with respect to students entering the United Kingdom from abroad) is hereby revoked.

(4) In the case of a person who was entitled to council tax benefit in respect of 31st March 1994 the preceding provisions of this regulation shall only apply to him—

(a) on the day immediately following the day on which the person’s benefit period which includes 31st March 1994 ends; and

(b) on any day thereafter.

Amendment of the Housing Benefit (General) Regulations 1987

3.—(1) The Housing Benefit (General) Regulations 1987(7) shall be further amended in accordance with the following provisions of this regulation.

(2) After regulation 7 (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) there shall be inserted the following regulation:

“Persons from Abroad

7A.—(1) A person from abroad who is liable to make payments in respect of a dwelling shall be treated as if he were not so liable.

(6) 1971 c. 77, as amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4.

(7) S.I. 1987/1971.

(2) In paragraph (1) a “person from abroad” means a person, other than a person to whom paragraph (3) or (5) applies, who has limited leave (as defined in section 33(1) of the 1971 Act) to enter or remain in the United Kingdom which was given in accordance with any provision in the immigration rules (as defined in that section) relating to—

- (a) there being, or to there needing to be, no recourse to public funds, or
- (b) there being no charge on public funds,

during that limited leave.

(3) Subject to paragraph (6) this paragraph applies to a person who—

- (a) is a national of a European Economic Area State, a state which is a signatory to the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953)(8), a state which is a signatory to the Council of Europe Social Charter (signed in Turin on 18th October 1961), the Channel Islands or the Isle of Man; or
- (b) having, during any one period of limited leave (including any such period as extended), supported himself without recourse to public funds other than any such recourse by reason of the previous application of this sub-paragraph, is temporarily without funds during that period of leave because remittances to him from abroad have been disrupted, provided that there is a reasonable expectation that his supply of funds will be resumed.

(4) In paragraph (1) “person from abroad” also means any person other than a person to whom paragraph (5) applies who—

- (a) having a limited leave (as defined in section 33(1) of the 1971 Act) to enter or remain in the United Kingdom, has remained without further leave under that Act beyond the time limited by the leave; or
- (b) is the subject of a deportation order being an order under section 5(1) of the 1971 Act (deportation) requiring him to leave and prohibiting him from entering the United Kingdom except where his removal from the United Kingdom has been deferred in writing by the Secretary of State; or
- (c) is adjudged by the immigration authorities to be an illegal entrant (as defined in section 33(1) of the 1971 Act) who has not subsequently been given leave under that Act to enter or remain in the United Kingdom except a person who has been allowed to remain in the United Kingdom with the consent in writing of the Secretary of State.

(5) This paragraph applies to a person who—

- (a) is an asylum seeker, and for this purpose a person—
 - (i) becomes an asylum seeker when he has submitted a claim for asylum to the Secretary of State that it would be contrary to the United Kingdom’s obligations under the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, and the protocol to that convention, for him to be removed from, or required to leave, the United Kingdom and that claim is recorded by the Secretary of State as having been made; and
 - (ii) ceases to be an asylum seeker when his claim is recorded by the Secretary of State as having been finally determined or abandoned; or
- (b) is awaiting the outcome of an appeal under Part II of the 1971 Act (including any period for which the appeal is treated as pending under section 33(4) of that Act); or

- (c) has no or no further right of appeal under the 1971 Act but has been allowed to remain in the United Kingdom while an application so to remain is, or representations on his behalf are, being considered by the Secretary of State; or
- (d) except where he is a person to whom paragraph (4)(b) applies, has been granted permission to remain in the United Kingdom pending the removal from the United Kingdom of a person who is the subject of a deportation order but whose deportation has been deferred in writing by the Secretary of State; or
- (e) is subject to a direction for his removal from the United Kingdom but whose removal has been deferred in writing by the Secretary of State; or
- (f) is in receipt of income support.

(6) Paragraph (3)(b) shall not apply to a person who has been temporarily without funds for any period, or the aggregate of any periods, exceeding 42 days during any one period of limited leave (including any such period as extended).

(7) In this regulation

“the 1971 Act” means the Immigration Act 1971⁽⁹⁾;

a “European Economic Area State” means a Member State or Norway, Sweden, Iceland, Austria or Finland.”.

(3) Regulation 49 (circumstances in which certain students are to be treated as not liable to make payments in respect of a dwelling) is hereby revoked.

(4) In the case of a person who was entitled to housing benefit in respect of 31st March 1994 or in a case to which regulation 1(b)(ii) applies, 3rd April 1994, the preceding provisions of this regulation shall only apply to him—

- (a) on the day immediately following the day on which the person’s benefit period, which includes 31st March 1994 or, as the case may be, 3rd April 1994, ends; and
- (b) on any day thereafter.

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

Department of Social Security
1st March 1994

Alistair Burt
Parliamentary Under-Secretary of State,

⁽⁹⁾ 1971 c. 77, as amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4.

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Council Tax Benefit (General) Regulations 1992 and the Housing Benefit (General) Regulations 1987.

Regulation 2 removes entitlement to council tax benefit from certain persons from abroad, in particular those persons (other than asylum seekers) who enter the United Kingdom on the basis that they will have no recourse to public funds.

Regulation 3 makes similar provision in relation to housing benefit.

These Regulations do not impose a charge on businesses.

The Report of the Social Security Advisory Committee dated 12th January 1994 on the proposals referred to them, together with the statement showing the extent to which these Regulations give effect to the Report and in so far as they do not give effect to it, the reasons why not, are contained in Command Paper Cm.2483, published by Her Majesty's Stationery Office.