
STATUTORY INSTRUMENTS

1987 No. 1971

The Housing Benefit (General) Regulations 1987

PART III

PAYMENTS IN RESPECT OF A DWELLING

Rent

10.—(1) Subject to the following provisions of this regulation, the payments in respect of which housing benefit is payable in the form of a rent rebate or allowance are the following periodical payments which a person is liable to make in respect of the dwelling which he occupies as his home—

- (a) payments of, or by way of, rent;
- (b) payments in respect of a licence or permission to occupy the dwelling;
- (c) payments by way of mesne profits or, in Scotland, violent profits;
- (d) payments in respect of, or in consequence of, use and occupation of the dwelling;
- (e) payments of, or by way of, service charges payment of which is a condition on which the right to occupy the dwelling depends;
- (f) mooring charges payable for a houseboat;
- (g) where the home is a caravan or a mobile home, payments in respect of the site on which it stands;
- (h) any contribution payable by a person resident in an almshouse provided by a housing association which is either a charity of which particulars are entered in the register of charities established under section 4 of the Charities Act 1960⁽¹⁾ (register of charities) or an exempt charity within the meaning of that Act, which is a contribution towards the cost of maintaining that association's almshouses and essential services in them;
- (i) payments under a rental purchase agreement, that is to say an agreement for the purchase of a dwelling under which the whole or part of the purchase price is to be paid in more than one instalment and the completion of the purchase is deferred until the whole or a specified part of the purchase price has been paid; and
- (j) where, in Scotland, the dwelling is situated on or pertains to a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1955⁽²⁾, the payment in respect of the croft land.

(2) A rent rebate or, as the case may be, a rent allowance shall not be payable in respect of the following periodical payments:—

- (a) payments under a long tenancy except a shared ownership tenancy granted by a housing association or a housing authority;
- (b) payments under a co-ownership scheme;

⁽¹⁾ 1960 c. 58; subsections (8) and (10) of section 4 were amended by section 1(4) and (5) and Schedule 2 Parts I and II of the Education Act 1973 (c. 16).

⁽²⁾ 1955 c. 21; section 3(1) was amended by section 14 of the Crofting Reform (Scotland) Act 1976 (c. 21).

- (c) payments by an owner;
- (d) payments under a hire purchase, credit sale or conditional sale agreement except to the extent the conditional sale agreement is in respect of land; and
- (e) payments by a Crown tenant.

(3) Subject to any apportionment in accordance with paragraphs (4) and (5) and to regulations 11 and 12 (restrictions on unreasonable payments and rent increases), the amount of a person's eligible rent shall be the aggregate of such payments specified in paragraph (1) as he is liable to pay less—

- (a) except where he is separately liable for rates or charges for water, sewerage or allied environmental services, an amount determined in accordance with paragraph (6); and
- (b) 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.

(4) Where the payments specified in paragraph (1) are payable in respect of accommodation which consists partly of residential accommodation and partly of other accommodation, only such proportion thereof as is referable to the residential accommodation shall count as eligible rent for the purposes of these Regulations.

(5) Where more than one person is liable to make payments in respect of a dwelling, the payments specified in paragraph (1) shall be apportioned for the purpose of calculating the eligible rent for each such person having regard to all the circumstances, in particular, the number of such persons and the proportion of rent paid by each such person.

(6) The amount of the deduction referred to in paragraph (3) shall be—

- (a) in respect of rates—
 - (i) if the dwelling occupied by the claimant is a single rateable unit, the amount of the rates payable in respect of the rateable unit as a whole, or
 - (ii) if the dwelling comprises part only of a rateable unit, the amount treated as a payment by way of rates by virtue of regulation 9(2) (rates);
- (b) in respect of charges for water, sewerage or allied environmental services—
 - (i) except in a case to which head (iii) applies, if the dwelling occupied by the claimant is a single rateable unit, the amount of the charges,
 - (ii) in any other case except one to which head (iii) applies, the proportion of those charges in respect of the rateable unit of which the dwelling is part, equal to the proportion of the rates payable in respect of the rateable unit as a whole treated as payments by way of rates for which the claimant is liable under regulation 9(2) (rates), or
 - (iii) where the charges vary in accordance with the amount of water actually used, the amount which the appropriate authority considers to be fairly attributable to water, sewerage and allied environmental services, having regard to the actual or estimated consumption of the claimant.

(7) In this regulation and Schedule 1—

“service charges” means periodical payments for services, whether or not under the same agreement as that under which the dwelling is occupied, or whether or not such a charge is specified as separate from or separately identified within other payments made by the occupier in respect of the dwelling; and

“services” means services performed or facilities (including the use of furniture) provided for, or rights made available to, the occupier of a dwelling.