
STATUTORY INSTRUMENTS

1988 No. 1890

The Housing Benefit (Community Charge Rebates) (Scotland) Regulations 1988

PART II

MEMBERSHIP OF A FAMILY

Persons of prescribed description

4.—(1) Subject to paragraph (2), a person of a prescribed description for the purposes of section 20(11) of the Act (definition of family) as it applies to housing benefit is a person aged 16 or over but under 19 who is treated as a child for the purposes of section 2 of the Child Benefit Act 1975(1) (meaning of child), and in these Regulations such a person is referred to as a “young person”.

(2) Paragraph (1) shall not apply to a person who is on income support.

Circumstances in which a person is to be treated as responsible or not responsible for another

5.—(1) Subject to the following provisions of this regulation a person shall be treated as responsible for a child or young person who is normally living with him.

(2) Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person shall be treated for the purposes of paragraph (1) as normally living with—

- (a) the person who is receiving child benefit in respect of him; or
- (b) if there is no such person—
 - (i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or
 - (ii) in any other case, the person who has the primary responsibility for him.

(3) For the purposes of these Regulations, a child or young person shall be the responsibility of only one person in any benefit week and any person other than the one treated as responsible for the child or young person under this regulation shall be treated as not so responsible.

Circumstances in which a person is to be treated as being or not being a member of the household

6.—(1) Subject to paragraphs (2) and (3), the claimant and any partner and, where the claimant or his partner is treated as responsible by virtue of regulation 5 (circumstances in which a person is to be treated as responsible or not responsible for another) for a child or young person, that child or

(1) 1975 c. 61, as amended by sections 4, 8 and 21 and Schedule 5 Part I of the Social Security Act 1980 (c. 30) and by section 70 of the Social Security Act 1986 (c. 50) and by section 4(4) of the Social Security Act 1988 (c. 7).

young person and any child of that child or young person shall be treated as members of the same household notwithstanding that any of them is temporarily absent from that household.

(2) A child or young person shall not be treated as a member of the claimant's household where he is—

- (a) boarded out with the claimant or his partner under a relevant enactment; or
- (b) boarded out with the claimant or his partner prior to adoption; or
- (c) placed for adoption with the claimant or his partner pursuant to a decision under the Adoption Agencies Regulations 1983(2) or the Adoption Agencies (Scotland) Regulations 1984(3).

(3) Subject to paragraph (4), paragraph (1) shall not apply to a child or young person who is not living with the claimant and—

- (a) is in the care of a local authority under a relevant enactment; or
- (b) has been boarded out with a person other than the claimant prior to adoption; or
- (c) has been placed for adoption pursuant to a decision under the Adoption Agencies Regulations 1983 or the Adoption Agencies (Scotland) Regulations 1984.

(4) An authority shall treat a child or young person to whom paragraph (3)(a) applies as being a member of the claimant's household in any benefit week where—

- (a) that child or young person lives with the claimant for part or all of that benefit week; and
- (b) the authority considers that it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.

(5) In this regulation "relevant enactment" means the Army Act 1955(4), the Air Force Act 1955(5), the Naval Discipline Act 1957(6), the Adoption Act 1958(7), the Matrimonial Proceedings Children Act 1958(8), the Children Act 1958(9), the Social Work (Scotland) Act 1968(10), the Family Law Reform Act 1969(11), the Children and Young Persons Act 1969(12), the Matrimonial Causes Act 1973(13), the Guardianship Act 1973(14), the Children Act 1975(15), the Domestic Proceedings and Magistrates' Courts Act 1978(16), the Adoption (Scotland) Act 1978(17), the Child Care Act 1980(18) and the Foster Children Act 1980(19).

(2) S.I.1983/1964.
(3) S.I. 1984/988.
(4) 1955 c. 18.
(5) 1955 c. 19.
(6) 1957 c. 53.
(7) 1958 c. 5.
(8) 1958 c. 40.
(9) 1958 c. 65.
(10) 1968 c. 49.
(11) 1969 c. 46.
(12) 1969 c. 54.
(13) 1973 c. 18.
(14) 1973 c. 29.
(15) 1975 c. 72.
(16) 1978 c. 22.
(17) 1978 c. 28.
(18) 1980 c. 5.
(19) 1980 c. 6.