
STATUTORY INSTRUMENTS

1989 No. 1322

SOCIAL SECURITY

The Community Charge Benefits (Transitional) Order 1989

Made - - - - 28th July 1989
Laid before Parliament 9th August 1989
Coming into force - - 30th August 1989

The Secretary of State for Social Services in exercise of the powers conferred by section 147 of the Local Government Finance Act 1988(1) and of all other powers enabling him in that behalf hereby makes the following Order;

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Community Charge Benefits (Transitional) Order 1989 and shall come into force on 30th August 1989.

(2) In this Order unless the context otherwise requires—

“the Act” means the Social Security Act 1986(2);

“the Benefits Regulations” means the Community Charge Benefits (General) Regulations 1989(3);

“the General Regulations” means the Housing Benefit (General) Regulations 1987(4);

“the Rebates Regulations” means the Housing Benefit (Community Charge Rebates) (Scotland) Regulations 1988(5);

“appropriate authority” means—

(a) in England and Wales the charging authority to which section 31B(2) of the Act(6) refers, and

(b) in Scotland, the levying authority to which section 31B(3) of the Act refers;

“community charge benefits” means benefits to which section 20(1)(d) of the Act refers(7);

(1) 1988 c. 41.

(2) 1986 c. 50.

(3) S.I. 1989/1321.

(4) S.I. 1987/1971.

(5) S.I. 1988/1890.

(6) Section 31B was inserted in the Act by the Local Government Finance Act 1988 (c. 41) Schedule 10 paragraph 6.

(7) Section 20(1)(d) was inserted in the Act by the Local Government Finance Act 1988 (c. 41) Schedule 10 paragraph 2(2).

“community charge rebates” has the same meaning as in section 28(1)(aa) of the Act⁽⁸⁾;

“relevant date” means 1st April 1990,

and other expressions shall have the same meaning as in the Benefits Regulations.

(3) Unless the context otherwise requires, in this Order a reference in an article to a numbered paragraph is a reference to the paragraph in that article bearing that number.

Transitional provision for claims

2.—(1) A claim for community charge benefits under the Benefits Regulations may be made on or after 30th August 1989 and a claim for housing benefit under the General Regulations or for community charge rebates under the Rebates Regulations made at any time in the period beginning with that date and ending with 31st March 1990, may in addition be treated as a claim for community charge benefits.

(2) Except in cases to which article 3 applies, notwithstanding in England and Wales, that a person is not yet shown in an appropriate authority’s community charges register as subject to a personal community charge of the authority concerned, where the authority is of the opinion that unless there is a change of circumstances that person will satisfy the conditions of entitlement for community charge benefits on the relevant date, it may invite him to claim community charge benefits from that date.

(3) Any claim to which paragraph (1) or paragraph (2) refers made in the period from 30th August 1989 to 31st March 1990 shall be treated as made in respect of a benefit period beginning on the relevant date, except where the claim is in respect of a period beginning on a later date, and regulation 60(12) of the Benefits Regulations (13 week time limit on claims in advance of entitlement) shall not apply to any claim falling to be so treated.

(4) A claim for community charge rebates under the Rebates Regulations made, but not determined before the relevant date—

- (a) shall remain effective, in respect of any period before that date, as a claim for a rebate under those Regulations; and
- (b) shall be treated, in respect of any later period, as a claim for community charge benefits under the Benefits Regulations.

(5) Subject to the provisions of this Order, any claim for community charge benefits under the Benefits Regulations made or treated as made in accordance with paragraphs (1) to (3) and (4)(b) may be determined before the relevant date in accordance with those Regulations.

(6) A determination which is made awarding community charge benefit under the Benefits Regulations in accordance with paragraph (5)—

- (a) may award that benefit from the relevant date if it appears probable to the appropriate authority that the conditions for entitlement will be satisfied from that date;
- (b) shall be subject to the conditions for entitlement being satisfied on the relevant date; and
- (c) may be reviewed if any question arises as to the satisfaction of those conditions.

(7) Where in Scotland a claim is made for community charge rebates on or after the relevant date in respect of a period before that date, the appropriate authority may determine under regulation 60(18) of the Benefits Regulations (backdating for good cause) that the claim may be backdated and, in any case where it is so determined, entitlement to a rebate in respect of the period before the relevant date shall be calculated in accordance with the provisions of the Rebates Regulations.

⁽⁸⁾ Section 28(1)(aa) was inserted in the Act by regulation 4(a) of the Housing Benefit (Social Security Act 1986 Modifications) (Scotland) Regulations 1988 (S.I. 1988/1483).

(8) Regulation 64(3) of the Benefits Regulations (time within which claims are to be determined) shall not apply to claims for community charge benefits made or treated as made under this article until 14 days before the relevant date.

(9) To determine a person's entitlement to community charge benefits under the Benefits Regulations for the purposes of this Order, the appropriate authority may require that person to furnish such certificates, documents, information and evidence as it may reasonably require.

Waiver of claims

3.—(1) Notwithstanding the provisions of section 165A of the Social Security Act⁽⁹⁾ (necessity of claims for entitlement to benefit), the appropriate authority may determine that, with respect to—

- (a) any person in England and Wales who before the relevant date was in receipt of housing benefit under the General Regulations, or
- (b) any person who has been awarded community charge rebates under the Rebates Regulations for a benefit period which includes 31st March 1990,

it shall not be a condition of entitlement to community charge benefits under the Benefits Regulations that a claim for such benefits has been made; and, where the authority so determines the provisions of the Act and regulations made thereunder shall apply, subject to the following provisions of this Order, as if a claim for those benefits had been duly made by or on behalf of a person to whom this paragraph applies in respect of a period commencing on the relevant date.

(2) Where by virtue of paragraph (1) a person's entitlement to community charge benefits falls to be determined as if a claim for it has been made—

- (a) in the case of a person to whom paragraph (1)(a) applies, his entitlement may be determined at an earlier date than the relevant date if that person is entitled to a rebate or allowance under the General Regulations at that earlier date, or
- (b) in the case of a person to whom paragraph (1)(b) applies, his entitlement may be determined at an earlier date if that person is entitled to community charge rebates under the Rebates Regulations at that earlier date,

and any entitlement to community charge benefits shall be determined in accordance with the Benefits Regulations as if the whole of those Regulations were in force.

(3) A determination which is made awarding community charge benefit under the Benefit Regulations in accordance with paragraph (2)—

- (a) may award benefit from the relevant date if it appears probable to the appropriate authority that the conditions for entitlement will be satisfied from that date;
- (b) shall be subject to the conditions for entitlement being satisfied on the relevant date;
- (c) may be reviewed if any question arises as to the satisfaction of those conditions.

Further provision for initial claims

4. In England and Wales where—

- (a) a person is liable for a personal community charge from the relevant date,
- (b) a claim for community charge benefits in respect of that charge is received by the designated office of the appropriate authority either not more than 56 days after the relevant date or, where the claimant does not receive his first community charge demand notice

(9) 1975 c. 14; section 165A was substituted by paragraph 87 of Schedule 10 to the Social Security Act 1986 (c. 50) and amended by the Social Security Act 1989 (c. 24) Schedule 8 paragraph 9. It applies to community charge benefits by virtue of section 20(1)(d) of the 1986 Act as inserted by the Local Government Finance Act 1988 (c. 41) Schedule 10 paragraph 2(2) and Schedule 10 paragraph 48 of the 1986 Act.

stating the payment he is required to make until after the relevant date, not more than 56 days from the date he receives that notice, and

- (c) in a case where there has been a delay in issuing the demand notice, the delay is not in consequence of a failure by the claimant to notify the community charges registration officer that he is liable for that charge,

the claim for community charge benefits shall be treated as having been made on the relevant date.

Determinations

5.—(1) Where a determination, which is made by the appropriate authority before the relevant date in order that it may be effective from that date, is notified to a person before that date, regulation 67(2) of the Benefits Regulations (representations on reviews) shall have effect as though for the reference in that provision to a period of 6 weeks from the notification of the determination there were substituted a reference to a period of 6 weeks beginning on the relevant date.

(2) A determination under this Order shall be treated for the purposes of regulations 67 and 75 of the Benefits Regulations (reviews) as if it were a determination under those Regulations.

Recovery of overpayments of community charge rebates

6. Without prejudice to any other method of recovery, an overpayment of community charge rebates made to a person by an appropriate authority under the Rebates Regulations, which was recoverable under those Regulations by that authority, may be recovered by that authority, where community charge benefits are due from the authority to the person concerned, in the same manner as excess benefits may be recovered under the Benefits Regulations.

Amendment of regulation 66 of the General Regulations

7. In regulation 66 of the General Regulations (benefit period)(10) for paragraph (3A) there shall be substituted—

“(3A) Where, in England and Wales, an award is made in consequence of a claim under these Regulations in the period from 30th August 1989 to 31st March 1990, the benefit period for the award shall not exceed 80 weeks”.

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

28th July 1989

Nicholas Scott
Minister of State,
Department of Social Security

(10) Paragraph (3A) was inserted in regulation 66 of the General Regulations by S.I. 1988/1971.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional and consequential provisions in connection with the introduction of a statutory scheme for the awarding of community charge benefits under the Social Security Act 1986 (“the 1986 Act”), as amended by the Local Government Finance Act 1988 (“the 1988 Act”). This scheme is implemented with effect from 1st April 1990 (“the relevant date”) by the Community Charge Benefits (General) Regulations 1989 (“the new scheme”). Community charge benefits under the new scheme replace housing benefit with respect to domestic rates in England and Wales and community charge rebates in Scotland.

In England and Wales and in Scotland claims for community charge benefits may be made from 30th August 1989 to have effect from the relevant date or some later date. In England and Wales a charging authority may invite a person to make such a claim. Claims made before the relevant date may be determined before that date though an award of benefit may be reviewed if the entitlement conditions are not satisfied at that date. In Scotland claims for housing benefit in the form of community charge rebates made before that date may also be treated as claims for community charge benefits and claims for rebates made after that date may be backdated if good cause for the late claim is shown (article 2).

Claims for community charge benefits under the new scheme need not be made by persons in receipt of housing benefit in England and Wales or community charge rebates in Scotland before the relevant date, where the authority responsible for awarding benefits determines no claim need be made. Entitlement to an award under the new scheme may be determined before the relevant date though the award may be reviewed either before or after the relevant date if the entitlement conditions are not satisfied (article 3).

In England and Wales, claims for community charge benefits to have effect from the relevant date may be treated as made on that date, where they are made either within 56 days of a claimant first being notified of the amount of a personal community charge for which he is liable or within 56 days of the relevant date where this is later. Where receipt of the first notice of payment was delayed in consequence of the failure of the claimant to notify the community charges registration officer that he was liable for the charge, subsequent claims may not be treated as made on the relevant date (article 4).

Where an authority makes a determination in advance of the relevant date, the time within which a person may apply for a review of that determination (6 weeks) will start to run only from the relevant date (article 5).

In Scotland recoverable overpayments of community charge rebates may be recovered under the new scheme in the same manner as excess benefits may be recovered under that scheme (article 6).

The Housing Benefit (General) Regulations 1987 are amended so as to extend, in England and Wales, the maximum benefit period on a claim for housing benefit made before 1st April 1990 to 80 weeks (article 7).